



MARIN COUNTY

COMMUNITY DEVELOPMENT AGENCY

ALEX HINDS, DIRECTOR

STAFF REPORT TO THE PLANNING COMMISSION

PLIMACK/SPURR APPEAL OF THE COMMUNITY DEVELOPMENT AGENCY'S RESCISSION OF THE ROBINSON VARIANCE

Item No:	4.	Application No:	Not applicable
Applicants:	Bevan and Anna Robinson	Appellants:	Michael and Ardith Plimack Jeffrey Spurr
Property Address:	4 Corte Las Sombras, Greenbrae	Assessor's Parcel:	070-181-04
Hearing Date:	March 22, 2004	Planner:	Megan Basinger

RECOMMENDATION:	Deny the Plimack/Spurr Appeal and Sustain the Community Development Agency's Rescission of the Robinson Variance
APPEAL PERIOD:	Ten calendar days to the Marin County Board of Supervisors
LAST DATE FOR ACTION:	April 1, 2004

SUMMARY RECOMMENDATION:

Staff recommends that the Planning Commission deny the Plimack/Spurr appeal and sustain the Community Development Agency's rescission of the Robinson Variance because the proposed rescission of the Variance would bring the property into compliance with the applicable zoning standards by removing the portion of the residence that is located in the rear yard setback. The existing rear yard encroachment was the basis of the 1967 Variance to establish conditions that prohibited a future second story addition to the residence.

PROJECT DESCRIPTION:

In 1967 the County granted a Variance to allow construction of an addition within the rear yard setback of the 7,200 square foot lot located in Greenbrae. The Variance contained conditions of approval that prohibited the property owner from the future construction of a second story addition or conversion of garage space into living space. In June of 2003 the applicants' request for a Variance Amendment to eliminate the prior condition, which prohibited a second story addition, in order to construct a second story addition was denied by the Planning Commission on the grounds that, while a second story addition is allowed by the governing zoning district, it would violate the intent of the prior Variance and confer a special development privilege that is not awarded to other lots in the neighborhood. Subsequently, the applicant submitted a request to demolish the portion of the residence located in the rear yard setback, which would rescind the 1967 Variance approval. The removal of the 256 square foot portion of the 450 square foot addition that encroaches into the 19.5-foot rear yard setback would lift the restriction on construction of a second story addition to the extent that the property would no longer benefit from a development condition that does not meet normal zoning standards (i.e. a substandard rear yard setback that was authorized by the Variance). Under the proposed rescission, the owner may submit for and receive approval of a ministerial building permit as long as the improvements conform to the development

standards of the governing R-1: B-2 zoning district, which allows second story additions. The Variance rescission would thus result in the subject property having the same status as all other properties in the community that are subject to and comply with the same or similar conventional zoning standards.

SUMMARY OF THE PLIMACK/SPURR APPEAL

On January 22, 2004, the Community Development Agency (CDA) granted an administrative rescission of the Robinson Variance based on the determination that the removal of the encroaching portion of the residence would bring the property into conformance with the governing R-1: B-2 zoning district. On February 2, 2004, Michael Plimack, Ardith Plimack, and Jeffrey Spurr, jointly filed a timely appeal of the Community Development Agency's Variance rescission that cites the following: 1) the granting of the rescission is unsupported by any findings or evidence and is incorrectly characterized as a ministerial permit; 2) the granting of the rescission is a circumvention of the Planning Commission's October 6, 2003 denial of the Robinson Variance Amendment; 3) conditions of approval for the 1967 Variance represent a burden on the title of the property; 4) the rescission would allow for construction of a second story that would severely and negatively impact adjoining properties; 5) the rescission does not contain conditions of approval, allowing the property owners "free-reign" for future development; 6) the rescission of the Variance would set a bad precedent; 7) the rescission is based on flawed reasoning and assumes that the 1967 Variance was for the presence of an addition within the setback; and 8) a reconfiguration of the development pattern on the property would create an additional burden on neighboring property owners.

GENERAL INFORMATION:

Countywide Plan:	SF5 (Single-family Residential, two to four units per acre maximum density)
Zoning:	R-1: B-2 (Residential, Single-family, 10,000 square foot minimum lot size)
Lot size:	7,200 square feet (per Assessor's records)
Adjacent Land Uses:	Single-family residential
Vegetation:	Introduced landscaping consisting of trees and shrubs
Topography and Slope:	Relatively flat
Environmental Hazards:	None identified

ENVIRONMENTAL REVIEW:

The Marin County Environmental Coordinator has determined that pursuant to Section 15268 of the California Environmental Quality Act (CEQA) Guidelines, CEQA does not apply to the rescission of a Variance because it is a ministerial action.

PUBLIC NOTICE:

The rescission was not subject to public notice because it is a ministerial permit. The neighboring property owners were sent a copy of the rescission as a courtesy. The Community Development Agency has provided public notice of the appeal hearing identifying the applicants, appellants, 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.

PLAN CONSISTENCY:

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

PROJECT ANALYSIS:

Background

The subject property was initially developed in 1947 with an approximately 1,200 square foot single-family residence. The County issued a Variance in 1967 for a 450 square foot addition that encroaches into the rear yard setback. The Variance had the following conditions: 1) no second story addition shall hereafter be allowed on any portion of this dwelling; and 2) the garage shall not hereafter be converted into floor area. (Refer to Attachment #5). The addition resulted in a 1,650 square foot residence, which represents a floor area ratio (FAR) of 22.9% on the 7,200 square foot lot. An approximately 105 square foot addition that complied with the governing zoning standards was subsequently constructed in 1987 through the issuance of a building permit. Review of the building permit history for the property indicates that this permit expired, without receiving a final inspection from the Building and Safety Division. Consequently, the applicant will be required to reapply for a building permit in order to legalize the construction that has since been completed.

In 2001, the applicant obtained a building permit for a 404 square foot second story addition that complied with all zoning requirements for the governing R-1: B-2 zoning district, including those pertaining to height, setback, and maximum floor area ratio. Due to the subsequent discovery of the conditions of approval from the 1967 Variance, the building permit was revoked by the Community Development Agency on May 2, 2003. The applicant submitted the Variance Amendment application seeking to eliminate the 1967 Variance condition of approval prohibiting second stories on the existing home for the purpose of constructing the second story initially proposed through the building permit application. The Planning Commission denied the Variance Amendment request on October 6, 2003 (refer to Attachment #7).

Variance Rescission

Subsequent to the Planning Commission's decision on the Variance Amendment, the property owner submitted a request to rescind the 1967 Variance that included the proposed removal of the 256 square foot portion of the residence that encroaches into the rear yard setback. Removal of this portion of the residence would bring the development on the property into strict conformance with current zoning standards for the R-1: B-2 zoning district, thereby nullifying the 1967 Variance and conditions of approval because the circumstance that had necessitated the Variance would have been eliminated.

Although a Variance rescission constitutes a ministerial action, the issuance of a rescission in lieu of a demolition permit was made in order to: 1) provide proper notification to the neighbors as a courtesy due to their interest in the previous Variance Amendment; 2) identify the steps that would need to be taken to ensure that the encroaching portion of the structure would be removed; and 3) create a record for present and future owners of the subject property about the zoning limitations to develop this lot.

ANALYSIS OF APPEAL:

Mr. Michael Plimack, Ms. Ardith Plimack, and Mr. Jeffrey Spurr, residents and owners of adjacent properties at 128 and 136 Almenar Drive, Greenbrae, submitted a Petition for Appeal on February 2, 2004 identifying eight bases of appeal of the Community Development Agency's rescission of the Robinson Variance. Below is staff's response to the issues raised by the appellants:

The granting of the rescission is unsupported by any findings or evidence and is incorrectly characterized as a ministerial permit.

Response to Appeal: The action to rescind a Variance is ministerial in nature because it does not require discretionary findings or conditions of approval other than compliance with the conventional zoning standards and other adopted and/or codified standards and procedures that are implemented by the County on a ministerial basis. Additionally, should the County deny the request, thereby leaving the Variance intact, such action would be tantamount to treating the Variance as an irrevocable covenant on the use of the land. County Counsel has advised staff that should the property owner obtain a ministerial demolition permit to remove the portion of the residence which gave rise to the original condition of Variance approval, the County may be enjoined legally from enforcing the terms of a Variance that could limit the ability of the property to be developed in a manner similar to other properties with identical zoning in the neighborhood.

The granting of the rescission is a circumvention of the Planning Commission's October 6, 2003 denial of the Robinson Variance Amendment.

Response to Appeal: The request for a Variance rescission by the property owner is not circumvention of the Planning Commission's October 6, 2003 determination because it is a different request. The October 6, 2003 determination denied the property owner's request to amend the existing Variance to construct a second story and retain the rear yard addition. The rescission of the Variance is based on substantially different circumstances that involve removing the encroaching portion of the residence, which results in the residence having the same status as the appellants' properties and all other properties in the surrounding neighborhood that comply with the applicable zoning regulations.

The conditions of approval for the 1967 Variance represent a burden on the title of the property.

Response to Appeal: Conditions of approval that are established by a discretionary permit do not constitute a deed restriction or covenant against the title of the property. Conditions of approval are not necessarily binding if the circumstances present on the property that necessitated said conditions no longer exist. By way of example, if the residence were destroyed, the County would consider the 1967 Variance to be void and the conditions of approval no longer applicable to rebuilding of the residence, which would have to meet current site development standards.

The rescission would allow for construction of a second story that would severely and negatively impact adjoining properties.

Response to Appeal: The Variance rescission would remove the portion of the residence that encroaches into the rear yard setback, bringing the property into conformance with the governing R-1: B-2 zoning district. The ability of the property owners to construct an addition that meets the zoning standards is a privilege that is enjoyed by all other conforming properties under identical zoning. Denial of the property owners' ability to remove the encroachment and construct a conforming addition could constitute a de facto rezoning of the property because it would burden the property with a development restriction that is different than that of similarly zoned properties. Additionally, the property owners are permitted under the terms and conditions of the 1967 Variance to increase the height of any portion of the residence to 30 feet

under the R-1: B-2 zoning district and because the Variance conditions of approval prohibiting to a second floor addition, not building height. While increasing the cubical volume would not be beneficial to the property owners in a manner that is equivalent to a second story addition, it could result in potentially more adverse visual impacts on neighboring properties than a second story addition.

The Variance rescission does not contain conditions of approval, allowing the property owners free reign for future development.

Response to Appeal: The Variance rescission is a ministerial permit that does not provide for the creation or establishment of discretionary conditions of approval. The rescission would not be effective until the property owner obtains a demolition permit, removes the encroaching portion of the residence, and demonstrates compliance with other ministerial standards. Placing limitations on a conforming property, such as prohibiting the construction of a second story, would take away the property owners' ability to enjoy privileges that are extended to all other conforming properties with identical zoning. Second stories are permitted to exist on properties in the area as long as they meet the zoning standards. Specific denial of a future second story is inappropriate and would constitute spot zoning of the property.

Rescission of the Variance would set a bad precedent.

Response to Appeal: The issuance of a rescission for a planning entitlement is not common. In this case, it allows the property owner to demolish a portion of the residence and conform to the governing zoning requirements, voiding the 1967 Variance. If the rescission were to be denied, that would set a negative precedent because it would deny the property owners' the ability to bring the property into conformance with the zoning standards and improve the property under such standards.

The rescission is based on flawed reasoning and an assumption that the 1967 Variance was for the presence of an addition within the setback.

Response to Appeal: The 1967 Variance allowed for the construction of an addition in the rear yard setback. If an encroachment had not been included in the proposal, Variance approval would not have been necessary. Demolition of the encroachment would then eliminate the circumstance that necessitated a Variance in the first place and would eliminate the conditions that had been applied to project.

A reconfiguration of the property would create an additional burden on neighboring property owners.

Response to Appeal: The neighboring property owners assert that they have grown accustomed to the existing rear yard encroachment and have planted landscaping along the rear property lines to provide screening of the structure that is located 6 feet from the rear property line. The appellants claim that a change in the existing development pattern on the property would place a further burden on their properties because it would impact their privacy by rendering their screening methods ineffective.

The removal of the portion of the residence that encroaches into the rear yard will bring the residence into compliance with the zoning requirements and is a right that is afforded to the property owner because it extends the same privileges that are enjoyed by other properties in the area that area also subject to the same or similar zoning. Denial of the ability to bring the property into conformance with the zoning standards and to construct conforming addition(s) in the future would be an unfair burden to the property owner because it would compromise their ability to enjoy the privileges that are extended through zoning by right of compliance.

CONCLUSION:

The rescission of the Robinson Variance would bring the property into conformance with the governing R-1: B-2 zoning requirements. The 1967 Variance conditions of approval that have been applied to the property and used as a basis of appeal are directly connected to the existence of an encroachment in the rear yard setback. The removal of the encroachment would void the need for a Variance and thereby eliminate the conditions of approval that were placed on the project. The inability of the property owners to void the Variance through the removal of the encroachment, or the application of the conditions of approval once the encroachment is removed could be construed as an irrevocable covenant on the use of the land. Such a covenant would deny the property owner the ability to develop the property in a manner that is similar to all other properties under identical zoning.

The ability of the CDA to rescind a permit is not a discretionary action identified in the Marin County Development Code and is not required to be supported by findings. Furthermore, allowing the removal of the encroachment and retaining the conditions of approval would place restrictions on the property that are not imposed on other properties under identical zoning. The placement of additional conditions or limitations on the rescission, could constitute spot zoning of the property.

Finally, staff is recommending the following: 1) denial of the Plimack/Spurr appeal because rescission of the 1967 Variance would require the property owner to remove the 256 square foot portion of the structure that encroaches into the rear yard setback and would bring the property into conformance with the governing R-1: B-2 zoning district; and 2) sustain the Community Development Agency's rescission of the Robinson Variance.

RECOMMENDATION:

Staff recommends that the Planning Commission review the administrative record, conduct a public hearing, and move to adopt the attached resolution: (1) denying the Plimack/Spurr Appeal; and (2) sustaining the Community Development Agency's rescission of the Robinson Variance.

- Attachments:
1. Proposed Resolution Denying the Plimack/Spurr Appeal and Sustaining the Community Development Agency's rescission of the Robinson Variance
 2. Plimack/Spurr Petition for Appeal, received 2/2/04
 3. Notice of Rescission, 1/22/04
 4. Letter Revoking Building Permit # 87767, 5/2/03
 5. 1967 Variance Approval
 6. Planning Commission Staff Report, 10/6/03
 7. Planning Commission minutes and resolution, 10/6/03
 8. Location Map
 9. Site Plan
 10. Assessor's Parcel Map
 11. Letter from Barbara Merolla, 2/2/04

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. _____

A RESOLUTION DENYING THE PLIMACK/SPURR APPEAL AND SUSTAINING THE
COMMUNITY DEVELOPMENT AGENCY'S RESCISSION OF THE ROBINSON VARIANCE
4 CORTE LOS SOMBRAS, GREENBRAE
ASSESSOR'S PARCEL 070-181-04

SECTION I: FINDINGS

- I. WHEREAS Bevan and Anna Robinson are requesting that the Variance issued to the property in 1967 be rescinded. The rescission would require the applicant to remove the portion of the 450 square foot addition that encroaches into the 19.5-foot rear yard setback. The 1967 Variance included conditions of approval that prevented the property owner from constructing a second story addition in the future or converting garage space into living space. Subsequent to the rescission of the 1967 Variance, completion of the demolition, confirmation that the residence complies with the required rear yard setback, the applicant has the right to apply for a Building Permit. The Building Permit will be processed and issued as a ministerial permit, which would not require public notification, as long as the improvements conform to the development standards of the governing R-1: B-2 zoning district, which includes those that govern second story additions. The subject property is located at 4 Corte Los Sombras, Greenbrae and is further identified as Assessor's Parcel 070-181-04.

- II. WHEREAS on January 22, 2004, the Community Development Agency issued a rescission of the Robinson Variance requiring the following items be completed to ensure that the demolition brings the residence into conformance with the zoning requirements: (1) apply for and receive a demolition permit for the area of the addition that is located within the 19 foot, 6 inch rear yard setback; (2) all work authorized by the demolition permit shall be completed; (3) submit a signed and stamped letter from a licensed surveyor providing written verification that the residence meets the required rear yard setback of 19 feet, 6 inches; and (4) the Notice of Variance Rescission will be recorded in the Marin County Recorder's Office upon completion of all the requirements necessary to affect the rescission of the Variance.

- III. WHEREAS, a timely appeal of the Community Development Agency's rescission of the Variance has been jointly filed by Michael Plimack, Ardith Plimack, and Jeffrey Spurr, neighboring property owners, asserting that: 1) the granting of the rescission is unsupported by any findings or evidence and is incorrectly characterized as a ministerial permit; 2) the granting of the rescission is a circumvention of the Planning Commission's October 6, 2003 denial of the Robinson Variance Amendment; 3) conditions of approval for the 1967 Variance represent a burden on the title of the property; 4) the rescission would allow for construction of a second story that would severely and negatively impact adjoining properties; 5) the Variance rescission does not contain conditions of approval, allowing the property owners free reign for future development; 6) the rescission of the Variance would set a bad precedent; 7) the rescission is based on flawed reasoning and an assumption that the 1967 Variance was for the presence of an addition within the setback; and 8) a reconfiguration of the property would create an additional burden on neighboring property owners.

- IV. WHEREAS the Marin County Planning Commission held a duly noticed public hearing on March 22, 2004, to consider the merits of the project and appeal, and hear testimony in favor of, and in opposition to, the project.

- V. WHEREAS the Marin County Planning Commission finds that pursuant to Section 15268 of the California Environmental Quality Act (CEQA) Guidelines, CEQA does not apply to the rescission of a variance because it is a ministerial permit.
- VI. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the Marin Countywide Plan for the following reasons:
- A. The project would be consistent with the SF5 (Single-family Residential, two to four units per acre) land use designation;
 - 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; and
 - E. The project would minimize soil disturbance and maximize retention of natural vegetation.
- VII. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the Kentfield/Greenbrae Community Plan because:
- A. The proposed project would retain the residential character that is representative of the Kentfield and Greenbrae communities;
 - B. The proposed project would maintain the current density of the property (SF5, two to four units per acre); and
 - C. The project would provide adequate on-site parking as determined by the Department of Public Works.
- VIII. WHEREAS the Marin County Planning Commission finds that the bases for the Plimack/Spurr appeal cannot be sustained and that the Community Development Agency acted appropriately in issuing the Variance Rescission due to the following factors:
- A. *The granting of the rescission to the Variance is unsupported by any findings or evidence and is incorrectly characterized as a ministerial permit.*

Response to Appeal: The action to rescind a Variance is ministerial in nature because it does not require discretionary findings or conditions of approval other than compliance with the conventional zoning standards and other adopted and/or codified standards and procedures that are implemented by the County on a ministerial basis. Additionally, should the County deny the request, thereby leaving the Variance intact, such action would be tantamount to treating the Variance as an irrevocable covenant on the use of the land. County Counsel has advised staff that should the property owner obtain a ministerial demolition permit to remove the portion of the residence which gave rise to the original condition of Variance approval, the County may be enjoined legally from enforcing the terms of a Variance that could limit the ability of the property to be developed in a manner similar to other properties with identical zoning in the neighborhood.

- B. *The granting of the rescission is a circumvention of the Planning Commission's October 6, 2003 denial of the Robinson Variance Amendment.*

Response to Appeal: The request for a Variance rescission by the property owner is not circumvention of the Planning Commission's October 6, 2003 determination because it is a different request. The October 6, 2003 determination denied the property owner's request to amend the existing Variance to construct a second story and retain the rear yard addition. The rescission of the Variance is based on substantially different circumstances that involve removing the encroaching portion of the residence, which results in the residence having the same status as the appellants' properties and all other properties in the surrounding neighborhood that comply with the applicable zoning regulations.

- C. *The conditions of approval for the 1967 Variance represent a burden on the title of the property.*

Response to Appeal: Conditions of approval that are established by a discretionary permit do not constitute a deed restriction or covenant against the title of the property. Conditions of approval are not necessarily binding if the circumstances present on the property that necessitated said conditions no longer exist. By way of example, if the residence were destroyed, the County would consider the 1967 Variance to be void and the conditions of approval no longer applicable to rebuilding of the residence, which would have to meet current site development standards.

- D. *The rescission would allow for construction of a second story that would severely and negatively impact adjoining properties.*

Response to Appeal: The Variance rescission would remove the portion of the residence that encroaches into the rear yard setback, bringing the property into conformance with the governing R-1: B-2 zoning district. The ability of the property owners to construct an addition that meets the zoning standards is a privilege that is enjoyed by all other conforming properties under identical zoning. Denial of the property owners' ability to remove the encroachment and construct a conforming addition could constitute a de facto rezoning of the property because it would burden the property with a development restriction that is different than that of similarly zoned properties. Additionally, the property owners are permitted under the terms and conditions of the 1967 Variance to increase the height of any portion of the residence to 30 feet under the R-1: B-2 zoning district and because the Variance conditions of approval prohibiting a second floor addition, not building height. While increasing the cubical volume would not be beneficial to the property owners in a manner that is equivalent to a second story addition, it could result in potentially more adverse visual impacts on neighboring properties than a second story addition.

- E. *The Variance rescission does not contain conditions of approval, allowing the property owners free reign for future development.*

Response to Appeal: The Variance rescission is a ministerial permit that does not provide for the creation or establishment of discretionary conditions of approval. The rescission would not be effective until the property owner obtains a demolition permit, removes the encroaching portion of the residence, and demonstrates compliance with other ministerial standards. Placing limitations on a conforming property, such as prohibiting the construction of a second story, would take away the property owners' ability to enjoy privileges that are extended to all other conforming properties with identical zoning. Second stories are permitted to exist on properties in the area as long as they meet the zoning standards. Specific denial of a future second story is inappropriate and would constitute spot zoning of the property.

F. *Rescission of the Variance would set a bad precedent*

Response to Appeal: The issuance of a rescission for a planning entitlement is not common. In this case, it allows the property owner to demolish a portion of the residence and conform to the governing zoning requirements, voiding the 1967 Variance. If the rescission were to be denied, that would set a negative precedent because it would deny the property owners' the ability to bring the property into conformance with the zoning standards and improve the property under such standards.

G. *The rescission is based on flawed reasoning and an assumption that the 1967 Variance was for the presence of an addition within the setback.*

Response to Appeal: The 1967 Variance allowed for the construction of an addition in the rear yard setback. If an encroachment had not been included in the proposal, Variance approval would not have been necessary. Demolition of the encroachment would then eliminate the circumstance that necessitated a Variance in the first place and would eliminate the conditions that had been applied to project.

H. *A reconfiguration of the property would create an additional burden on neighboring property owners.*

Response to Appeal: The neighboring property owners assert that they have grown accustomed to the existing rear yard encroachment and have planted landscaping along the rear property lines to provide screening of the structure that is located 6 feet from the rear property line. The appellants claim that a change in the existing development pattern on the property would place a further burden on their properties because it would impact their privacy by rendering their screening methods ineffective.

The removal of the portion of the residence that encroaches into the rear yard will bring the residence into compliance with the zoning requirements and is a right that is afforded to the property owner because it extends the same privileges that are enjoyed by other properties in the area that area also subject to the same or similar zoning. Denial of the ability to bring the property into conformance with the zoning standards and to construct conforming addition(s) in the future would be an unfair burden to the property owner because it would compromise their ability to enjoy the privileges that are extended through zoning by right of compliance.

SECTION II: ACTION

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby denies the Plimack/Spurr appeal and sustains the Community Development Agency's conditional approval of the Robinson Variance Rescission subject to the following conditions:

Marin County Community Development Agency, Planning Division

Based on the written request of the property owner, the Community Development Agency has rescinded the 1967 Variance. All rights and entitlements confirmed by the 1967 Variance will cease upon completion of the following requirements:

- 1) The property owner shall apply for and receive a demolition permit for the area of the addition that is located within the 19 foot, 6 inch rear yard setback.
- 2) All work authorized by the demolition permit shall be completed.
- 3) The property shall submit a stamped letter from a licensed surveyor providing written verification that the residence meets the required rear yard setback of 19 feet, 6 inches.

- 4) The garage may be converted into living space in the future if the conversion complies with the governing floor area ratio standards and adequate on-site parking is provided.
- 5) A copy of the Notice of Variance Rescission will be recorded in the Marin County Recorder's Office upon completion of all the requirements necessary to affect the rescission of the Variance.

Once the above requirements have been completed and reviewed by the Community Development Agency Director, the applicant may submit for a Building Permit for new construction that complies with the governing standards in the R-1: B-2 zoning district. Building Permits are ministerial permits that are not subject to public notice, conditions of approval, or appeal.

SECTION IV: APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Board of Supervisors. A Petition for Appeal and a \$675.00 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 April 1, 2004.**

SECTION V: VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 22nd day of March, 2004, by the following vote to wit:

AYES:

NOES:

ABSENT:

ALLEN BERLAND, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

Jessica Wood
Recording Secretary