



**MARIN COUNTY PLANNING DIVISION
ADMINISTRATIVE DECISION
Kosmowski Variance and Design Review**

Decision: Approve with conditions
Date: January 21, 2021

Project ID No:	P2868	Applicant(s):	Laura Goldman
		Owner(s):	Eron and Christina Kosmowski
		Assessor's Parcel No(s):	071-081-35
		Property Address:	15 Poplar Drive, Kentfield
		Project Planner:	Sabrina Cardoza (415) 473-3607 scardoza@marincounty.org
		Signature:	<i>Sabrina Cardoza</i>
Countywide Plan Designation:		SF4 (Single-Family, 1-2 units/acre)	
Community Plan Area:		Kentfield/Greenbrae Community Plan	
Zoning District:		R1-B3 (Residential, Single-Family, 20,000 square-foot minimum lot size)	
Environmental Determination:		Categorically Exempt, CEQA Guidelines Section 15301, Class 1 and Section 15303, Class 3	

PROJECT SUMMARY

The applicant, Laura Goldman on behalf of the property owners, Eron and Christina Kosmowski, is requesting Variance and Design Review approval to construct 991 square feet of new additions onto an existing 4,482 square-foot single-family residence and a new 775 square-foot detached garage on a developed lot in unincorporated Kentfield. The 1,766 square feet of proposed new development would result in a floor area of 6,419 square feet and a floor area ratio of 10.68 percent on the 60,131 square-foot lot.

The proposed additions onto the existing residence would reach a maximum height of approximately 16 feet, 10 inches above surrounding grade and the exterior walls of the additions, including the areas of addition and remodel, would have setbacks to the property lines as follows: 40 feet from the northern front property line; 0.5 inches from the western side property line; 68 feet from the eastern side property line; 84 feet, 8 ½ inches from the southern rear property line.

The proposed detached garage would reach a maximum height of twelve feet, eight inches above surrounding grade and the exterior walls would have the following setbacks: 14 feet, three inches from the northern front property line; 46 feet, 6 ½ inches from the western side property line; 38 feet from the eastern side property line; and over 100 feet from the southern rear property line.

Various site improvements would also be entailed in the proposed development, including an improved driveway and new hardscape.

Variance approval is required because the proposed project does not meet the setback standards for the R1-B3 zoning district, pursuant to Marin County Development Code Section 22.14.050. Design Review approval is required pursuant to Marin County Development Code Section 22.20.090.C.1(a) because the project entails the construction of a detached garage located within the required 30-foot front yard setback per the R1-B3 zoning district.

COUNTYWIDE PLAN CONSISTENCY

The proposed project is consistent with the Marin Countywide Plan (CWP) for the following reasons:

- A. The project entails the removal of seven trees that are identified as protected or heritage trees pursuant to Marin County Development Code Section 22.130.030, including two California bay trees (*Umbellularia californica*) and five Coast live oak trees (*Quercus agrifolia*). However, Marin County Code Development Section 22.62.040.A provides the following exemption from Tree Removal Permits pursuant to Chapter 22.62:

“The general health of the tree is so poor due to disease, damage, or age that efforts to ensure its long-term health and survival are unlikely to be successful.”

According to an arborist report prepared by Bartlett Tree Experts and dated received in final form on August 14, 2020, the trees proposed for removal are in poor condition or have significant defects in structure that cannot be abated with treatment. The trees proposed for removal meet the criteria for an exemption for Tree Removal Permits as they are in poor condition such that their long-term health and survival are unlikely to be successful. Further, the arborist report identifies 14 additional trees located on site that would be preserved. The project is consistent with the requirements for Native Tree Preservation and Protection pursuant to Marin County Development Code Chapter 22.27 and Section 22.62.040; therefore, the project is consistent with the CWP woodland preservation policy (BIO-1.3).

- B. The project is consistent with the CWP special-status species protection policy (BIO-2.2) because the subject property does not provide habitat for special-status species of plants or animals.
- C. The project is consistent with the CWP natural transition and connection policies (BIO 2.3 and BIO 2.4) because the project would not substantially alter the margins along riparian corridors, wetlands, baylands, or woodlands.
- D. The project is consistent with the CWP stream and wetland conservation policies (BIO-3.1 and CWP BIO-4.1) because the proposed development would not encroach into any Stream Conservation Areas or Wetland Conservation Areas.
- E. The project is consistent with CWP water quality policies and would not result in substantial soil erosion or discharge of sediments or pollutants into surface runoff (WR-1.3, WR-2.2, WR-2.3) because the grading and drainage improvements would comply with the Marin County standards and best management practices required by the Department of Public Works.

- F. The project is consistent with CWP seismic hazard policies (CWP Policies EH-2.1, EH-2.3, and CD-2.8) because it would be constructed in conformance with County earthquake standards, as verified during review of the Building Permit application and the subject property is not constrained by unusual geotechnical problems, such as existing fault traces.
- G. The project is consistent with CWP fire hazard management policies (EH-4.1, EH-4.2, EH-4.5) because it would meet all fire safety requirements, as verified by the local fire protection district during review of the Building Permit application.
- H. The project is consistent with CWP aesthetic policies and programs (DES-4.1 and DES-4.e) because it would protect scenic quality and views of ridgelines and the natural environment from adverse impacts related to development.
- I. The project is consistent with CWP residential design policies and programs (DES-3.b and DES-4c) because it would fit within the context of the neighborhood, minimize the perception of mass and bulk, and comply with the Single-family Residential Design Guidelines.

COMMUNITY PLAN CONSISTENCY

The proposed project is consistent with the Kentfield/Greenbrae Community Plan policies related to subarea I for the following reasons:

- A. The project would meet the floor area ratio and height standards identified in the Conservation and Development Standards as the proposed building area would be 11.6 percent of the 60,131 square-foot lot area where a maximum of 35 percent is allowed per the Conservation and Development Standards. Further, the proposed in-fill additions to the primary residence would reach a height of 16 feet, 10 inches and the proposed detached garage would reach a height of twelve feet, eight inches where the maximum height of 30 feet for a primary structure and the maximum height of 15 feet for detached accessory structures are allowed per the governing R1-B3 (Residential, Single-family, 20,000 square-foot minimum lot size) zoning district.

Although the portion of the primary residence proposed to be remodeled along the western side of the property encroaches into the 15-foot side-yard setback established by the R1-B3 zoning district, Variance findings have been made consistent with Section 22.54.050 of the Marin County Development Code that the subject property is subject to special physical circumstances unique to the property due to topography and lot configuration. Please see the Variance findings for further discussion.

- B. The project would meet all access and parking standards, as verified by the Department of Public Works during Building Permit review.
- C. The project would be adequately landscaped in conformance with Community Appearance and Amenities standards.

DEVELOPMENT CODE CONSISTENCY

Mandatory Findings for Variance (Marin County Code Section 22.54.050 and California Government Code Section 65906)

- A. There are special circumstances unique 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.**

The project proposal includes the remodeling of approximately 2,053 square feet of existing floor area. A portion of the remodel is located within the footprint of the existing residence and includes the reconstruction of exterior walls to accommodate reconfigured windows. The footprint of the exterior wall would remain 0.5 inches from the western side property line where a minimum side-yard setback of 15-feet is normally required by the governing R1-B3 (Residential, Single-Family, 20,000 square-foot minimum lot size) zoning district.

The project site is an irregularly shaped, steep lot with an average slope of 37 percent. The property lines create a flag lot stemming from Poplar Drive and a jogged side yard property line along the western portion of the property where a portion of the remodel is proposed. The area of development where the existing residence and hardscape improvements have been sited is located on the most level portion of the site which is a localized highpoint within the surrounding area. The proposed area of remodel encroaching into the required setbacks would maintain the existing footprint and bulk and mass along the western portion of the site.

Due to topography and lot configuration, relocating the portion of the project proposed for remodeling located in the setback would result in further grading and site disturbance. Therefore, these exceptional circumstances constitute a hardship unique to this property. As such, the proposal to reduce the required side-yard setback is consistent with this finding.

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

Granting the Variance will not authorize a use or an activity that is not authorized by the governing R1-B3 zoning District. The Variance will approve the construction of improvements to an existing single-family residence, which is a principally permitted use.

- C. 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 proposal would not constitute a grant of special privilege that would be inconsistent with the limitations upon other properties in the vicinity because the specific circumstances, constituting a hardship as described in Section A, including an irregularly shaped lot and steep topography, are unique to the subject property.

- D. 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.**

The granting of this Variance will not be detrimental to the public interest, health, safety, convenience or welfare of the County, or injurious to improvements in the vicinity because the project will be required to meet California Building Code and Uniform Fire Code standards during the Building Permit review process. Therefore, the project would be consistent with this finding.

Mandatory Findings for Design Review (Marin County Code Section 22.42.060)

- A. The proposed development complies with either the Single-family or Multi-family Residential Design Guidelines, as applicable, the characteristics listed in Chapter 22.16 (Discretionary Development Standards) and any applicable standards of the special purpose combining districts provided in Chapter 22.14 of this Development Code.**

There are no standards provided in Chapter 22.14 that apply to the project. The proposed project is consistent with the Design Guidelines and Discretionary Development Standards because it is designed to avoid adversely affecting natural resources or the character of the local community. The project's consistency with the standards and guidelines most pertinent to the subject property is discussed below.

SITE PREPARATION: Development Standards J.1 through J.6; Design Guidelines A-1.2 through A-1.4

The project site is an irregularly shaped, steep lot with an average slope of 37 percent. The areas of existing development, including the residence and surrounding hardscape improvements, are located on the most level portion of the site, which is a localized highpoint within the surrounding area. The project entails infill additions, remodeling of the existing structure, and a new detached garage to be located within this previously developed area. The project also entails the widening and repaving of the existing driveway.

The development would result in 50 cubic yards of cut within the existing building footprint and 70 cubic yards of cut outside of the existing footprint to accommodate the proposed improvements, resulting in a total of 120 cubic yards of cut and 70 cubic yards of fill. Other downslope areas of the property would be retained.

The applicant submitted a stormwater control plan, a drainage plan, and grading plan that were reviewed by the Department of Public Works and found to be acceptable. An engineered grading and drainage plan will be submitted in accordance with the standards outlined by the Department of Public Works during the Building Permit review process.

As further discussed in the Countywide Plan Consistency, Section A above, there are seven trees proposed for removal. As verified by an arborist report prepared by Bartlett Tree Experts and dated received in final form on August 14, 2020, the trees proposed for removal meet the criteria for an exemption for Tree Removal Permits pursuant to Marin County Development Code Section 22.62.040.A because they are in poor condition such that their long-term health and survival are unlikely to be successful. Further, the arborist report identifies 14 additional trees located on site that would be preserved. A uniformly applied special condition of approval will require that the applicant install 3-foot high temporary construction fencing demarcating established tree protection zones for all protected trees that are not being removed in the vicinity of any area of grading, construction, materials storage, soil stockpiling, or other construction activity.

BUILDING LOCATION: Development Standards D.1 through D.4; Design Guidelines D-1.6

The project has been sited to be clustered within previously developed portions of the site. A small portion of the lower northern portion of the site is located within a mapped Ridge and Upland Greenbelt (RUG) area; however, the portion located within the RUG only contains proposed hardscape improvements and the portion of property proposed for infill additions and a new detached accessory structure is located outside of the RUG.

Though the project site is located on a localized highpoint, it is located more than 300 feet horizontally and 100 feet vertically below a ridgeline area to the north of the property located along Upper Toyon Drive.

PROJECT DESIGN: Development Standard I.1 and I.2; Design Guideline D-1.7

The project entails a detached garage that would reach a maximum height of twelve feet, eight inches where a maximum height of 15 feet above surrounding grade is allowed for detached accessory structures by the governing R1-B3 (Residential, Single-Family, 20,000 square-foot minimum lot size) zoning district. The project also entails additions to the existing primary residence that would reach a maximum height of 16 feet, 10 inches above surrounding grade where a maximum height of 30 feet above surrounding grade is allowed for primary structures by the governing R1-B3 zoning district.

The proposed colors and materials would match the existing residence and would be unobtrusive to the surrounding natural and built environment because they would utilize subdued colors and materials such as beige stucco, stained cedar brown soffit, weathered bronze fascia and fitters, and dark colored trim.

MASS AND BULK: Design Guidelines D-1.1 through D-1.5

The proposed project includes infill additions to an existing residence and a detached accessory structure (garage) that would reduce effective visual bulk with the separation of buildings and roof forms. The infill additions maintain a reduced visual bulk using varied roof slopes and wall expanses articulated with modest roof eaves, windows, doors, minor projections, recesses, and planters.

EXTERIOR LIGHTING: Development Standard G; Design Guideline C-1.11

The selected exterior light fixtures would be shielded and downward facing. However, a standard condition of approval will be imposed to ensure that all the exterior lighting incorporated into the Building Permit is unobtrusive and downward facing.

LANDSCAPING AND VEGETATION REMOVAL: Development Standard F; Design Guideline A-1.1

The project site is characterized by dense, mature vegetation on the downslope areas of the property and introduced ornamental landscaping along the perimeter of the residence and outdoor living spaces.

The applicant provided an arborist report prepared by Bartlett Tree Experts which verifies the poor condition of seven trees to be removed and the fair or good conditions of 14 trees to be preserved. A uniformly applied special condition of approval will require that the applicant install 3-foot high temporary construction fencing demarcating established tree protection zones for all protected trees that are not being removed in the vicinity of any area of grading, construction, materials storage, soil stockpiling, or other construction activity.

The applicant provided a landscape plan that entails the planting of a mix of native and drought-tolerant plant species that would occur in accordance to the requirements of the Kentfield Fire Protection District's fire safety standards.

ACCESS: Development standard C; Design Guidelines A-1.5

Access to the property is provided by Fawn Drive. Driveway improvements would be constructed in accordance to the standards set by the Department of Public Works and the Kentfield Fire Protection District's.

NEIGHBORHOOD COMPATABILITY: Design Guidelines B-1.1, C-1.1 through C-1.3, C-1.7

The surrounding area is comprised of a varied mix of architectural styles and lot sizes ranging from moderately sized to large lots. The topography of the surrounding area is similar to the steep topography of the project site. The bulk, massing and height of residences vary widely, ranging between single and multi-story residences. The proposed project is consistent with the key design principles of the Single-family Residential Design Guidelines in that the project incorporates articulated building forms and varied roof forms to break up bulk and mass.

B. The proposed development provides architectural design, massing, materials, and scale that are compatible with the site surroundings and the community.

The architectural design, massing, materials and scale of the infill additions and detached garage are compatible with the neighborhood, which is comprised of a mixture of moderate to large lot and residence sizes.

The residence is designed to incorporate a combination of articulated building and roof forms. The proposed exterior materials would match the existing residence and are generally compatible with the surrounding neighborhood, including a combination of subdued colors such as beige stucco, stained cedar brown soffit, weathered bronze fascia and gutters, and dark colored trim.

C. The proposed development results in site layout and design that will not eliminate significant sun and light exposure or result in light pollution and glare; will not eliminate primary views and vistas; and will not eliminate privacy enjoyed on adjacent properties.

The proposed project is designed to utilize existing vegetative screening and previously developed areas, resulting in a site layout that will preserve existing sun and light exposure, views, vistas, and privacy to the adjacent properties. A standard condition of approval requires all exterior lighting to be shielded and downward facing so that the project would not result in any nighttime light pollution and/or glare.

D. The proposed development will not adversely affect and will enhance where appropriate those rights-of-way, streetscapes, and pathways for circulation passing through, fronting on, or leading to the property.

The proposed development and site improvements would not impact any right-of-way or pathways of circulation because it is designed to be built outside of these areas. Improvements to the existing driveway would provide for additional onsite parking and would occur in accordance with the standards set by the Department of Public Works.

E. The proposed development will provide appropriate separation between buildings, retain healthy native vegetation and other natural features, and be adequately landscaped consistent with fire safety requirements.

The proposed project will provide appropriate separation between buildings by maintaining existing setbacks to the neighboring residence to the west and retaining existing vegetative

screening. The proposed location allows for the residence to be sited within previously developed areas such that vegetation removal and grading would be minimized to the greatest extent possible. A landscape plan was submitted by the applicant that would occur in accordance with the requirements of the Kentfield Fire Protection District's standards.

ACTION

The project described in condition of approval 1 below is authorized by the Marin County Planning Division and is subject to the conditions of project approval.

This decision certifies the proposed project's conformance with the requirements of the Marin County Development Code and in no way affects the requirements of any other County, State, Federal, or local agency that regulates development. In addition to a Building Permit, additional permits and/or approvals may be required from the Department of Public Works, the appropriate Fire Protection Agency, the Environmental Health Services Division, water and sewer providers, Federal and State agencies.

CONDITIONS OF PROJECT APPROVAL

CDA-Planning Division

1. This Variance and Design Review approval authorizes the construction of 991 square feet of new additions onto an existing 4,482 square-foot single-family residence and a new 775 square-foot detached garage on a developed lot in unincorporated Kentfield. The 1,766 square feet of approved development would result in a floor area of 6,419 square feet and a floor area ratio of 10.68 percent on the 60,131 square-foot lot.

The approved additions onto the existing residence would reach a maximum height of approximately 16 feet, 10 inches above surrounding grade and the exterior walls of the additions, including the areas of addition and remodel, would have setbacks to the property lines as follows: 40 feet from the northern front property line; 0.5 inches from the western side property line; 68 feet from the eastern side property line; 84 feet, 8 ½ inches from the southern rear property line.

The approved detached garage would reach a maximum height of twelve feet, eight inches above surrounding grade and the exterior walls would have the following setbacks: 14 feet, three inches from the northern front property line; 46 feet, 6 ½ inches from the western side property line; 38 feet from the eastern side property line; and over 100 feet from the southern rear property line.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled "Kosmowski Remodel," consisting of 31 sheets prepared by L'oro, received in final form on October 28, 2020, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. The project shall conform to the Planning Division's "Uniformly Applied Conditions 2021" with respect to all of the standard conditions of approval and the following special conditions: 6 (tree protection fencing).

VESTING

Unless conditions of approval establish a different time limit or an extension to vest has been granted, any permit or entitlement not vested within three years of the date of the approval shall expire and become void. The permit shall not be deemed vested until the permit holder has actually obtained any required Building Permit or other construction permit and has substantially completed improvements in accordance with the approved permits, or has actually commenced the allowed use on the subject property, in compliance with the conditions of approval.

RIGHT TO APPEAL

This decision is final unless appealed to the Planning Commission. A Petition for Appeal and the required fee must be submitted in the Community Development Agency, Planning Division, Room 308, Civic Center, San Rafael, no later than eight business days from the date of this decision.

cc: *{Via email to County departments and Design Review Board}*

CDA – Assistant Director
CDA – Planning Manager
DPW – Land Development
Marin Municipal Water District
County No.1 Sanitary District
Kentfield Fire Protection District
Kentfield Planning Advisory Board

Attachments:

1. Marin County Uniformly Applied Conditions 2021
2. Planning Application Review, Department of Public Works, Dated November 24, 2020
3. Meeting minutes of September 30, 2020, Kentfield Planning Advisory Board