



TOWN OF TIBURON
 1505 Tiburon Boulevard
 Tiburon, CA 94920

Design Review Board Meeting
 March 17, 2016
 Agenda Item: **2**

STAFF REPORT

To: Members of the Design Review Board
From: Planning Manager Watrous
Subject: 73 Reed Ranch Road; File Nos. VAR2016001/DR2016005; Site Plan and Architecture Review for Construction of a Fence and Trellis for an Existing Single-Family Dwelling, with a Variance for Excess Fence Height
Reviewed By: _____

PROJECT DATA

ADDRESS: 73 REED RANCH ROAD
OWNER: WESLEY DODDS
APPLICANT: BANA, INC. (ARCHITECT)
ASSESSOR'S PARCEL: 038-301-07
FILE NUMBERS: VAR2016001/DR2016005
LOT SIZE: 15,678 SQUARE FEET
ZONING: RO-2 (SINLGE-FAMILY RESIDENTIAL-OPEN
GENERAL PLAN: M (MEDIUM DENSITY RESIDENTIAL)
FLOOD ZONE: X
DATE COMPLETE: FEBRUARY 29, 2016

PRELIMINARY ENVIRONMENTAL DETERMINATION

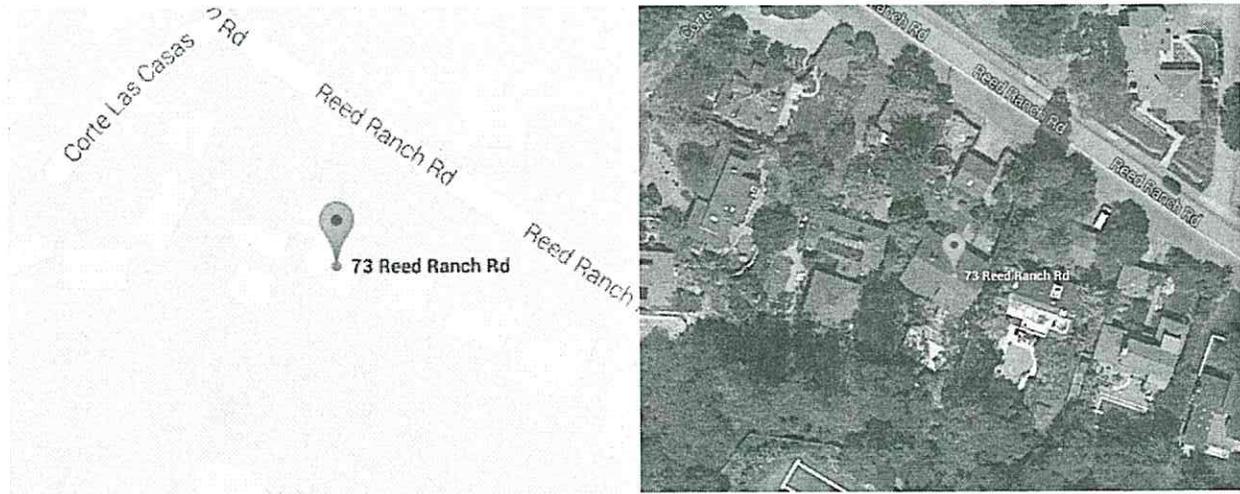
Town Planning Division Staff has made a preliminary determination that this proposal would be exempt from the provisions of the California Environmental Quality Act (CEQA), as specified in Section 15303.

PROJECT DESCRIPTION

The applicant is requesting Design Review approval for the construction of a fence and trellis for an existing single-family dwelling on property located at 73 Reed Ranch Road. The fence and trellis would be constructed adjacent to an existing swimming pool and pool deck area in the rear of the property.

The proposed fence would be 9 feet tall. As the Tiburon Zoning Ordinance restricts fences to a maximum height of 6 feet within required setbacks, a variance is requested for excess fence height.

PROJECT SETTING



The subject property is situated on the south side of Reed Ranch Road. A detached garage is located at the front of the site, with the dwelling centered on the lot. A swimming pool and deck area are situated toward the rear.

The neighboring property to the east at 71 Reed Ranch Road is situated at a higher elevation. The adjacent lot includes a raised deck that looks down onto the pool area of the subject property.

ANALYSIS

Design Issues

The applicant has indicated that the additional fence height is necessary to provide privacy screening between the pool and surrounding deck area from the adjacent raised deck at 71 Reed Ranch Road. Although the submitted plans illustrate the line of sight from the neighbors' deck to the pool itself, the applicant and the neighboring property owner have both indicated that the 9 foot tall fence would block views between the raised deck and the deck surrounding the pool. They have both indicated that the open design of the proposed trellis would not sufficiently screen these views.

A thick grove of trees on the old railroad right-of-way to the rear of the property effectively screens the location of the proposed fence and trellis from any homes to the rear. As a result, a 9 foot tall fence at this location would not interfere with views or create privacy impacts for any nearby residences.

Zoning

Staff has reviewed the proposal and finds that it is in general conformance with the development standards for the RO-2 zone, with the exception of the requested variance for excess fence height.

In order to grant the requested variance, the Board must make all of the following findings required by Section 16-52.030 (E) of the Tiburon Zoning Ordinance:

1. ***Because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of this Ordinance will deprive the applicant of privileges enjoyed by other properties in the vicinity and in the same or similar zones.***

The rear of the subject property is situated at an elevation below the adjacent lot at 71 Reed Ranch Road. The neighboring lot includes a raised deck which has uninterrupted views down into an otherwise private space around the swimming pool. These physical characteristics create special circumstances that would deprive the applicant of privileges enjoyed by other properties in the vicinity and in the same or similar zones for appropriate privacy protection if the maximum fence height requirement is strictly applied.

2. ***The Variance will not constitute a grant of special privileges, inconsistent with the limitations upon other properties in the vicinity and in the same or substantially the same zone.***

Numerous other properties in the RO-2 and similar zones have been granted variances for excess fence height to allow fences with the height necessary to provide appropriate privacy protection for the site. Therefore, the requested variance would not be a grant of special privileges. It should be noted that most such privacy fences are not as tall as the 9 foot fence requested by this application.

3. ***The strict application of this Zoning Ordinance would result in practical difficulty or unnecessary physical hardship. Self-created hardships may not be considered among the factors that might constitute special circumstances. A self-created hardship results from actions taken by present or prior owners of the property that consciously create the very difficulties or hardships claimed as the basis for an application for a Variance.***

The strict application of the maximum fence height requirement would expose a large portion of the site to uninterrupted viewlines from the raised deck at 71 Reed Ranch Road, resulting in an unnecessary hardship on the applicant.

4. ***The granting of the variance will not be detrimental to the public welfare or injurious to other properties in the vicinity.***

As noted above, the proposed fence would not create any view or privacy impacts for other homes in the vicinity.

From the evidence provided, Staff believes that there is sufficient evidence to support the findings for the requested variance.

Public Comment

As of the date of this report, no letters have been received regarding the subject application.

RECOMMENDATION

The Design Review Board should review this project with respect to Zoning Ordinance Sections 16-52.020 (H) (Guiding Principles) and determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15303. If the Board agrees with staff's conclusions, it is recommended that the attached conditions of approval be applied.

ATTACHMENTS

1. Conditions of approval
2. Application and supplemental materials
3. Submitted plans

Prepared By: Daniel M. Watrous, Planning Manager

CONDITIONS OF APPROVAL

73 REED RANCH ROAD

FILE #VAR2016001/DR2016005

1. This approval shall be used within three (3) years of the approval date, and shall become null and void unless a building permit has been issued.
2. Construction shall conform with the application dated by the Town of Tiburon on January 21, 2016, or as amended by these conditions of approval. Any modifications to the plans of January 21, 2016 must be reviewed and approved by the Design Review Board.
3. Project elements shown on construction drawings submitted to the Building Division for plan check shall be essentially identical to those project elements shown on drawings approved by the Design Review Board. The permit holder is responsible for clearly identifying on construction drawings any and all changes to project elements. Such changes must be clearly highlighted (with a “bubble” or “cloud”) on the construction drawings. A list describing in detail all such changes shall be submitted and attached to the construction drawings, with a signature block to be signed by the Planning Division Staff member indicating whether these changes have been reviewed and are approved, or will require additional Design Review approval. All such changes that have not been explicitly approved by the Town are not “deemed approved” if not highlighted and listed on construction drawings. Construction of any such unapproved project elements is in violation of permit approvals and shall be subject to Stop Work Orders and removal.
4. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
5. All exterior lighting fixtures other than those approved by the Design Review Board must be down-light-type fixtures.
6. If this approval is challenged by a third party, the property owner/applicant will be responsible for defending against this challenge. The property owner/applicant agrees to defend, indemnify and hold the Town of Tiburon harmless from any costs, claims or liabilities arising from the approval, including, without limitations, any award of attorney’s fees that might result from the third party challenge.
7. A copy of the Planning Division’s “Notice of Action” including the attached “Conditions of Approval” for this project shall be copied onto a plan sheet at the beginning of the plan set(s) submitted for building permits.
8. All requirements of the Town Engineer shall be met, including, but not limited to, the following, which shall be noted on building plan check plans:

- a. The public right-of-way shall be protected from damage during construction, or repairs shall be made to the satisfaction of the Tiburon Public Works Department.
 - b. Any proposal that would encroach onto the public right-of-way is not permitted. This would include fences, retaining walls and other structures.
 - c. Typical encroachments, such as driveway approaches, walkways, drainage facilities, and short-height landscaping, need to be processed through a standard Public Works encroachment permit application with plans for review.
9. The final landscape and irrigation plans must comply with the current water efficient landscape requirements of MMWD.
10. The project shall comply with the requirements of the California Fire Code and the Tiburon Fire Protection District, including, but not limited to, the following:
- a. The vegetation on this parcel shall comply with the requirements of TFPD. CFC 304.1.2



TOWN OF TIBURON
LAND DEVELOPMENT APPLICATION

RECEIVED
JAN 21 2016
PLANNING DIVISION

TYPE OF APPLICATION

- Conditional Use Permit
- Precise Development Plan
- Secondary Dwelling Unit
- Zoning Text Amendment
- Rezoning or Prezoning
- General Plan Amendment
- Temporary Use Permit
- Design Review (DRB)
- Design Review (Staff Level)
- Variance(s) 1 #
- Floor Area Exception
- Tidelands Permit
- Sign Permit
- Tree Permit
- Tentative Subdivision Map
- Final Subdivision Map
- Parcel Map
- Lot Line Adjustment
- Condominium Use Permit
- Seasonal Rental Unit Permit
- Other _____

APPLICANT REQUIRED INFORMATION

SITE ADDRESS: 73 REED RANCH RD TIBURON PROPERTY SIZE: _____
PARCEL NUMBER: 038-301-07 ZONING: _____

PROPERTY OWNER: WESLEY DODDS
MAILING ADDRESS: 73 REED RANCH RD TIBURON, CA 94920

PHONE/FAX NUMBER: (415) 215-6060 E-MAIL: WES.DODDS@COMCAST.NET

APPLICANT (Other than Property Owner): OWNER
MAILING ADDRESS: _____

PHONE/FAX NUMBER: _____ E-MAIL: _____

ARCHITECT/DESIGNER/ENGINEER BADA INC
MAILING ADDRESS: 71 BLIKE ST

PHONE/FAX NUMBER: (415) 752-2824 E-MAIL: _____

Please indicate with an asterisk () persons to whom Town correspondence should be sent.*

BRIEF DESCRIPTION OF PROPOSED PROJECT (attach separate sheet if needed):
NEW FENCE TALLER THAN 6FT ON PROPERTY LINE, NEW TREES.
ALL APPROVED BY NEIGHBORS

I, the undersigned owner (or authorized agent) of the property herein described, hereby make application for approval of the plans submitted and made a part of this application in accordance with the provisions of the Town Municipal Code, and I hereby certify that the information given is true and correct to the best of my knowledge and belief.

I understand that the requested approval is for my benefit (or that of my principal). Therefore, if the Town grants the approval, with or without conditions, and that action is challenged by a third party, I will be responsible for defending against this challenge, with the defense counsel subject to the Town's approval. I therefore agree to accept this responsibility for defense at the request of the Town and also agree to defend, indemnify and hold the Town harmless from any costs, claims or liabilities arising from the approval, including, without limitation, any award of attorney's fees that might result from the third party challenge.

Signature:* W. Miller Date: 1/21/16

The property involving this permit request may be subject to deed restrictions called Covenants, Conditions and Restrictions (CC&Rs), which may restrict the property's use and development. These deed restrictions are private agreements and are NOT enforced by the Town of Tiburon. Consequently, development standards specified in such restrictions are NOT considered by the Town when granting permits.

You are advised to determine if the property is subject to deed restrictions and, if so, contact the appropriate homeowners association and adjacent neighbors about your project prior to proceeding with construction. Following this procedure will minimize the potential for disagreement among neighbors and possible litigation.

Signature:* W. Miller Date: 1/21/16

**If other than owner, must have an authorization letter from the owner or evidence of de facto control of the property or premises for purposes of filing this application*

NOTICE TO APPLICANTS

Pursuant to California Government Code Section 65945, applicants may request to receive notice from the Town of Tiburon of any general (non-parcel-specific), proposals to adopt or amend the General Plan, Zoning Ordinance, Specific Plans, or an ordinance affecting building or grading permits.

If you wish to receive such notice, then you may make a written request to the Director of Community Development to be included on a mailing list for such purposes, and must specify which types of proposals you wish to receive notice upon. The written request must also specify the length of time you wish to receive such notices (s), and you must provide to the Town a supply of stamped, self-addressed envelopes to facilitate notification. Applicants shall be responsible for maintaining the supply of such envelopes to the Town for the duration of the time period requested for receiving such notices.

The notice will also provide the status of the proposal and the date of any public hearings thereon which have been set. The Town will determine whether a proposal is reasonably related to your pending application, and send the notice on that basis. Such notice shall be updated at least every six weeks unless there is no change to the contents of the notice that would reasonably affect your application. Requests should be mailed to:

Town of Tiburon
Community Development Department
Planning Division
1505 Tiburon Boulevard
Tiburon, CA 94920
(415) 435-7390 (Tel) (415) 435-2438(Fax)
www.townoftiburon.org

DO NOT WRITE BELOW THIS LINE

VAR2016-601 DEPARTMENTAL PROCESSING INFORMATION		
Application No.: DR2016-005	GP Designation:	Fee Deposit: 935 ⁰⁰
Date Received: 1/21/16	Received By: W.	Receipt #: R567
Date Deemed Complete: 2/29/16	Action:	By: DC
Acting Body:		Date:
Conditions of Approval or Comments:		Resolution or Ordinance #

MINOR ALTERATION SUPPLEMENT

Please fill in the information requested below:

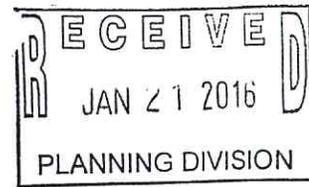
1. Briefly describe the proposed project (attach separate sheet as needed): _____

2. Lot area in square feet (Section 16-100.020(L))*: _____ Zoning: _____
3. Square footage of Landscape Area: _____
4. Proposed use of site (example: single family residential, commercial, etc.):
 Existing _____
 Proposed _____
5. Describe any changes to parking areas including number of parking spaces, turnaround or maneuvering areas.

TO BE COMPLETED BY APPLICANT				STAFF USE ONLY	
ITEM	EXISTING	PROPOSED ADDITION AND/OR ALTERATION	PROPOSED	CALCULATED	PER ZONE
Yards (Setbacks from property line) (Section 16-100.020(Y))* Front	ft.	ft.	ft.	ft.	ft.
Rear	ft.	ft.	ft.	ft.	ft.
Right Side	ft.	ft.	ft.	ft.	ft.
Left Side	ft.	ft.	ft.	ft.	ft.
Maximum Height (Section 16-30.050)*	8 ft.	ft.	6-9 FT ft.	ft.	ft.
Lot Coverage (Section 16-30.120(B))*	sq.ft.	sq.ft.	sq.ft.	sq.ft.	sq.ft.
Lot Coverage as Percent of Lot Area	%	%	%	%	%
Gross Floor Area (Section 16-100.020(F))*	sq.ft.	sq.ft.	sq.ft.	sq.ft.	sq.ft.

*Section numbers refer to specific provisions or definitions in the Tiburon Municipal Code, Title IV, Chapter 16 (Zoning)

S:\Planning\Forms\Current Forms\Design Review Board Application for Minor Alteration 9-2012.doc



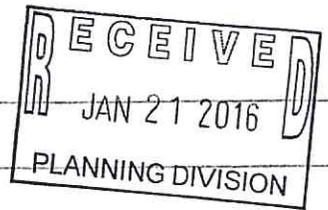
COMMUNITY DEVELOPMENT DEPARTMENT
 Planning Division (415)-435-7390
www.ci.tiburon.ca.us

APPLICATION FOR VARIANCE

A Variance is a form of regulatory relief available when a strict or literal application of zoning development standards would result in practical difficulties or unnecessary physical hardships for an applicant. These difficulties and/or hardships must be caused by physical conditions on, or in the immediate vicinity of, a site. Please refer to Section 16.52.030 of Chapter 16 (Zoning) of the Tiburon Municipal Code for additional information regarding Variances.

WHAT VARIANCE(S) ARE YOU REQUESTING?

<u>Condition</u>	<u>Zoning Requirement</u>	<u>Existing Condition</u>	<u>This Application Proposes</u>	<u>Magnitude Of Variance Requested</u>
Front Yard Setback	_____	_____	_____	_____
Rear Yard Setback	_____	_____	_____	_____
Left Side Yard Setback	_____	_____	_____	_____
Right Side Yard Setback	_____	_____	_____	_____
Lot Coverage	_____	_____	_____	_____
* Height	6 FT	ON GRANDE ELEVATION ISSUES W/ PROPERTY LINE	FENCE TALLER THAN 6 FT UP TO 9 FT	#3
Parcel Area Per Dwelling Unit	_____	_____	_____	_____
Usable Open Space	_____	_____	_____	_____
Parking	_____	_____	_____	_____
Expansion of Nonconformity	_____	_____	_____	_____
Other (Please describe):	_____			



REQUIRED FINDINGS :

- 1) THERE IS A PRIVACY ISSUE ON A PROPERTY LINE FENCE THAT BOTH ME AND MY NEIGHBOR HAVE AGREED ON THE SOLUTION. IF YOU LOOK AT THE PICTURE SUBMITTED HE LOOKS DIRECTLY DOWN ON MY PROPERTY FROM A 9' (BOTTOM) DECK. I WANT TO BUILD A 6'-9' TALL PROPERTY LINE FENCE AND TRELLIS IN ORDER TO ACCOMPLISH TWO THINGS. ONE, AESTHETICALLY KEEP THE TOP OF THE FENCE AT THE SAME ELEVATION FOR THE 70' LONG FENCE AND 2) HAVE SOME PRIVACY FOR MY YARD. PLEASE UNDERSTAND I ALREADY CUT DOWN A 20' TALL IVY WALL IN ORDER TO OPEN UP MY NEIGHBORS VIEW ACROSS MY PROPERTY THAT HE WAS VERY HAPPY ABOUT. THE IVY WALL HAD DESTROYED THE EXISTING FENCE AND WE HAD TO REPLACE IT.
- 2) DUE TO THE ELEVATION DROP FROM MY NEIGHBORS YARD TO MINE, THERE IS A NEED TO CONSTRUCT A TALL FENCE FOR PRIVACY AND AESTHETICS.
- 3) A 6' TALL FENCE 70' LONG ACROSS THIS PROPERTY LINE ELEVATION CHANGES DOES NOT GIVE MY PROPERTY ANY PRIVACY AND WOULD BE VERY UGLY TO LOOK AT.
- 4) ITS A PROPERTY LINE FENCE AND TRELLIS WHICH IS STANDARD AND ALLOWED EVERYWHERE AND ON EVERY PROPERTY. IT WOULD BE A LITTLE TALLER THAN NORMAL FOR REASON STATED ABOVE. THE NEIGHBOR ABOVE ME HAS AGREED AN IN FACT SAID HE DOESN'T WANT TO SEE INTO MY JACUZZI. HE WILL MAINTAIN HIS VIEW OVER MY PROPERTY.

WES DOORS (415) 215-6060