



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
March 17, 2016
Agenda Item: **5**

STAFF REPORT

To: Members of the Design Review Board
From: Planning Manager Watrous
Subject: 2 Miraflores Lane; File Nos. VAR2016004/DR2016015; Site Plan and Architecture Review for Construction of a Fence for an Existing Single-Family Dwelling, with a Variance for Excess Fence Height
Reviewed By: _____

PROJECT DATA

ADDRESS: 2 MIRAFLORES LANE
OWNER: DAVOUD SADEGHI
APPLICANT: ALEX KORN (ARCHITECT)
ASSESSOR'S PARCEL: 039-271-21
FILE NUMBERS: VAR2016004/DR2016015
LOT SIZE: 23,443 SQUARE FEET
ZONING: RPD (RESIDENTIAL PLANNED DEVELOPMENT)
GENERAL PLAN: M (MEDIUM DENSITY RESIDENTIAL)
FLOOD ZONE: X
DATE COMPLETE: FEBRUARY 24, 2016

PRELIMINARY ENVIRONMENTAL DETERMINATION

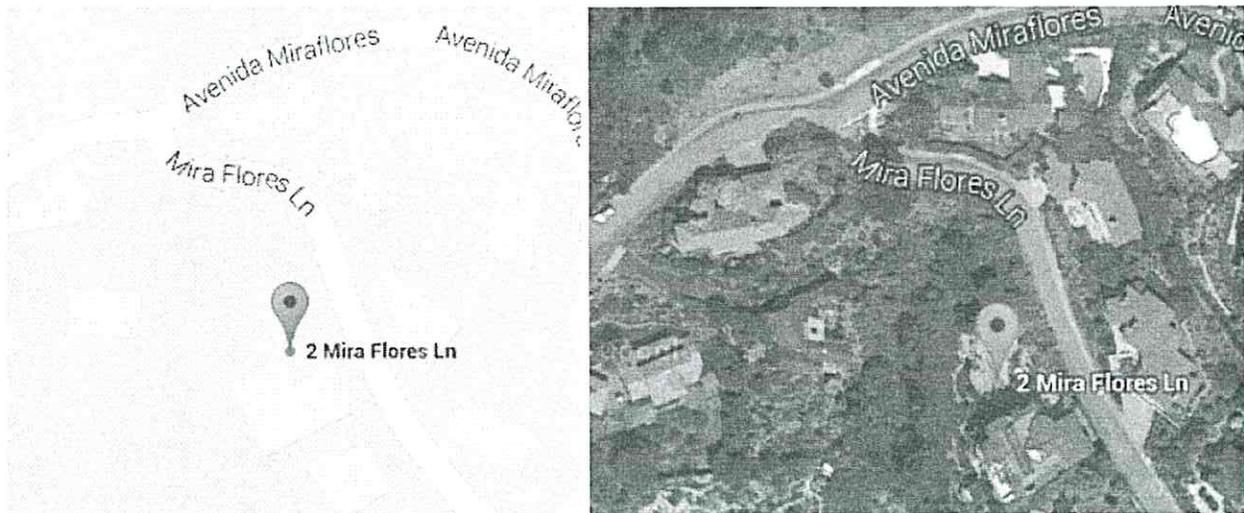
Town Planning Division Staff has made a preliminary determination that this proposal would be exempt from the provisions of the California Environmental Quality Act (CEQA), as specified in Section 15303.

PROJECT DESCRIPTION

The applicant is requesting Design Review approval for the construction of a fence for an existing single-family dwelling on property located at 2 Miraflores Lane. An existing wood fence along the front property line would be replaced with a new decorative metal fence.

The existing fence includes lattice panels at the top and is approximately 7 feet tall. The proposed fence would match the height of the existing fence. As the Tiburon Zoning Ordinance restricts property line fences to a maximum height of 6 feet, a variance is requested for excess fence height.

PROJECT SETTING



The subject property is situated on the southwest side of Miraflores Lane. The house is located at the southern end of the lot. A swimming pool and an accessory building which is under construction are located on the northern side of the site. The property is governed by the Miraflores Precise Plan, which has established primary and secondary building envelopes for this lot.

The subject property slopes down from the roadway of Miraflores Lane. The base of the existing fence is situated close to the roadway but below the street level.

ANALYSIS

Design Issues

The applicant has indicated that the additional fence height is necessary to prevent deer from entering the property. A 6 foot tall fence at the property line would not prevent deer from jumping the fence due to the difference in height between the property line and the adjacent street.

Homes across the street from the site are situated at higher elevations than the subject property. As a result, a 7 foot tall fence at this location would not interfere with views from any nearby residences. The proposed fence would have the appearance of a 6 foot fence due to its location below street level.

Zoning

Staff has reviewed the proposal and finds that it is in general conformance with the development standards for the RPD zone and the Miraflores Precise Plan, 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 subject property slopes down from Miraflores Lane, with an elevation change between the roadway and the front property line. 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 from appropriate deer 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 RPD and similar single-family residential zones have been granted variances for excess fence height to allow fences with the height necessary to provide appropriate deer protection for the site. Therefore, the requested variance would not be a grant of special privileges.

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 deer access, resulting in a practical difficulty 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

2 MIRAFLORES LANE

FILE #VAR2016004/DR2016015

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 February 11, 2016, or as amended by these conditions of approval. Any modifications to the plans of February 11, 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
FEB 11 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) _____ #
- 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: 2 MIRA FLORES LN. PROPERTY SIZE: 2344 sq ft
 PARCEL NUMBER: 039-271-21 ZONING: R1

PROPERTY OWNER: DAVUD SADEGHI *
 MAILING ADDRESS: 2 MIRA FLORES LN. TIBURON

PHONE/FAX NUMBER: 415 789-0002 E-MAIL: DAVUDS@GMAIL

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

PHONE/FAX NUMBER: _____ E-MAIL: _____

ARCHITECT/DESIGNER/ENGINEER ALEX KORAS
 MAILING ADDRESS: 1913 ADDISON ST. BERKELEY, CA 94705

PHONE/FAX NUMBER: 510 551-3384 E-MAIL: CATAMOUNT@SBCglobal

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

BRIEF DESCRIPTION OF PROPOSED PROJECT (attach separate sheet if needed):
Replacing existing 7' tall wooden fence to 7' metal fence

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. 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: * [Handwritten Signature]

Date: 2/9/16

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: * [Handwritten Signature]

Date: 2/9/16

**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*

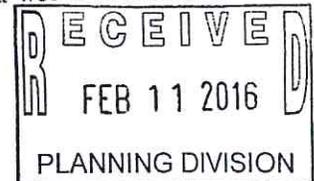
NOTICE TO APPLICANTS

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

DEPARTMENTAL PROCESSING INFORMATION			
Application No.:	DR2016-012/VAR2016-04	GP Designation:	Fee Deposit: \$135
Date Received:	2/11/16	Received By:	Receipt #: 2690
Date Deemed Complete:	2/24/16	Action:	By: [Signature]
Acting Body:		Resolution or Ordinance #:	
Conditions of Approval or Comments:			

FEB 11 2016
 PLANNING DIVISION

DESIGN REVIEW SUPPLEMENTAL APPLICATION FORM

Please fill in the information requested below (attach separate sheet as needed):

1. Briefly describe the proposed project: To replace existing wood fence to metal fence both at 7' tall
2. Lot area in square feet (Section 16-100.020(L)):
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)*	ft.	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 Chapter 16 (Zoning)



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

APPLICATION FOR VARIANCE

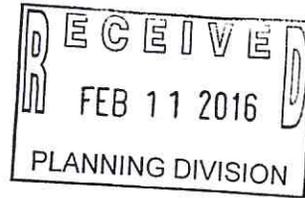
A Variance is a form of regulatory relief available when a strict or literal application of zoning development standards would result in practical difficulties or unnecessary physical hardships for an applicant. These difficulties and/or hardships must be caused by physical conditions on, or in the immediate 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	<u>6'0"</u>	<u>7'0"</u>	<u>7'0"</u>	<u>1'0"</u>
Parcel Area Per Dwelling Unit	_____	_____	_____	_____
Usable Open Space	_____	_____	_____	_____
Parking	_____	_____	_____	_____
Expansion of Nonconformity	_____	_____	_____	_____
Other (Please describe):	_____			

Davoud Sadeghi

2 Mira Flores Lane, Tiburon Ca 94920



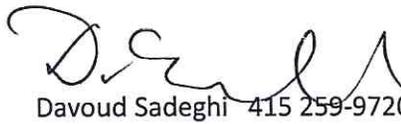
Phone: (415) 789-0002 Fax: (415) 789-0003 Email: Davoudjs@Gmail.com

Design Review Board

Please be advised that, We are replacing the existing wooden fence of 7' high with a new 7' high metal fence. Our new permit requires the height of fence to be 6'. Therefore I am applying for variance to accommodate my privacy and safety. Considering that, due to the topography of the land, the fence is installed 2' lower than street level and the actual height of the fence is only 5' from the street. In this situation if we put a 6' fence, we will have hard time protecting the privacy and security of our house and garden since deer and other intruders can easily jump over a 4' obstacle.

Thank you in advance for your cooperation.

Faithfully,

 2/11/16
Davoud Sadeghi 415 259-9720

