

To: Mayor, Ross Town Council, and Council-elect
From: Elise Semonian, Senior Planner
Re: Abrams, 18 Canyon, Extension of time Application, File 1655
Date: June 30, 2010

I. Project Summary

Owner: Douglas Abrams
Location: 18 Canyon Road
A.P. Number: 72-031-27
Zoning: R-1:B-5A (Single Family Residence, 5-Acre Minimum Lot Size)
General Plan: Very Low Density (.1-1 Units/Acre)
Flood Zone: Zone X (area outside the 1-percent annual chance floodplain)

II. Project Description

Request for approval of a one-year time extension to May 14, 2011, for a variance and design review application approved May 14, 2009, to allow 1.) conversion of 216 square feet of garage storage space to living space within side yard setback (25 feet required, 8 feet proposed); 2.) expansion of master bedroom at main level and addition of two new bedrooms at upper level within front yard setback (25 feet required, 5 feet proposed), resulting in a 401 square foot addition. Total development of 3,506 square feet is proposed.

Lot area (less road easement)	23,598 square feet
Existing Floor Area Ratio	13.2%
Proposed Floor Area Ratio	14.8% (15% permitted)
Existing Lot Coverage	10.7%
Proposed Lot Coverage	11.2% (15% permitted)

The existing residence is nonconforming in setbacks, maximum height, and number of stories

III. Discussion

The applicant requests a one-year extension of the expiration date for the Council approval of the project to May 14, 2011. The applicant was not ready to pull a building permit and begin construction before the planning approval expired. Staff has attached a copy of the applicant's extension request.

A variance and design review approval expires one year from the date of approval if an applicant does not secure a building permit or commence construction. The zoning ordinance provides that the Town Council may grant up to two one-year extensions of the approval if they determine that the findings made in the original approval remain valid.

The staff report and minutes for the May 14, 2009, Council meeting, with the findings and conditions of approval, are attached. Staff is aware of no circumstances that would invalidate the findings made for this project.

The existing residence exceeds the maximum permitted floor area for the site under the existing and proposed Hillside Lot floor area regulations (estimating the lot slope as 38%, based on the County of Marin contour method calculation). The project is currently exempt from the Hillside Lot Ordinance because the size of the addition is less than 20% of the existing floor area. The revisions to the Hillside Lot regulations in proposed Ordinance 620 would eliminate this exception.

Staff has no objection to the requested time extension. The applicants and future owners should be aware that the Town may only grant one additional one-year extension to the approval.

IV. Recommendation, Findings, & Conditions

Staff recommends approval of the requested time extension with the findings and conditions in the original approval dated May 14, 2009:

Findings:

1. There are special circumstances or conditions applicable to the land, building or use referred to in the application because areas of the site are steeply sloping, a roadway and driveway encumber the site, and the site is heavily wooded with native vegetation, which limits the potential development area on the site.
2. Granting the application for variances is necessary for the preservation and enjoyment of substantial property rights because the strict application of the Town's setback and story regulations would require demolition of the structure.
3. Granting the application will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. The addition does not extend further into the setback than the existing deck and walkway and maintains the line of the existing residence along the private road. The addition will be most visible to the residents of 12 Canyon, who own the project site.
4. The project is consistent with the purpose of the Design Review Chapter as outlined in RMC Section 18.41.010. The proposed addition is compatible in design to the existing structure.
5. The project is in substantial compliance with the design criteria of RMC Section 18.41.100. As conditioned, the proposed addition preserves existing site conditions, has adequate parking, and upgrades the appearance of the structure in a manner that is compatible with its setting.
6. As conditioned and with approval of the setback variances, the project is consistent with the Ross general plan and zoning ordinance.
7. This project is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guidelines for existing structures and minor alterations to land.

Conditions

1. The building permit plans shall reflect the deletion of the new deck area upslope of the proposed master bedroom addition and an exterior door shall be provided to the proposed living space at the garage level.

2. A building permit is required for the project. No work is permitted at the site until a building permit has been issued.
3. Sprinklers shall be extended to the new construction.
4. All exterior lighting shall be low wattage, shielded and downcast. No lighting of exterior walls or fences is permitted.
5. Under Ross Municipal Code Section 18.41.020, design review is required for any construction, improvements, grading/filling or any other site work within twenty-five feet of the top bank of the watercourse that runs through the site (including areas running in the culvert) and the high water mark of the detention ponds, whether or not a building permit is required.
6. The following conditions relate to maintenance of the drainage facilities at the site:
 - a. The applicant shall record CC&R's regarding the maintenance of the drainage facilities for 18 Canyon Road (APN 072-031-27) and 10 Canyon Road (APN 072-025-01). The C.C. & R's shall provide notice to all present and future property owners of the existence of the drainage facilities and the maintenance and repair obligations. They shall provide notice to all property owners that the detention basins, stormwater piping, drainage inlets and drainage channels that were approved by the Town shall not be modified or removed without prior approval of the Town of Ross Public Works Department.
 - b. The owner of the site is responsible for ongoing inspection, cleaning, maintenance and repair as necessary, but at least once a year, of all drainage facilities including detention basins, stormwater piping, drainage inlets and drainage channels, installed at the site.
 - c. The Town of Ross, in its sole discretion, may enter the property and make such repairs or undertake such maintenance work as is necessary in the event that the property owners fail to maintain or repair the drainage facilities. The Town of Ross will be reimbursed by the property owner for all costs in repairing or maintaining the structures. The failure to maintain or repair shall be deemed a public nuisance and the Town shall have the right to abate the nuisance, assess the cost thereof, and cause collection of said assessments to be made on the tax roll and as a personal obligation of the owner(s) in the manner provided for by the Ross Town Code and state law.
7. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
8. All site drainage shall be dissipated in a manner that prevents erosion and conforms to current storm water discharge practices in Marin County. The applicant is responsible for ensuring storm water runoff is maintained in its natural path.
9. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.

10. Any portable toilets shall be placed off of the street and out of public view. Project development shall comply with the requirements of the Ross Valley Sanitary District.
11. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice.
12. **NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.** Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits and prior to any modifications.
13. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
14. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.