

To: Mayor and Ross Town Council
From: Elise Semonian, Senior Planner
Re: Momsen, 59 Winship Avenue, Variances, File 1761
Date: June 30, 2010

I. Project Summary

Owner: Robert and Carol Momsen
Location: 59 Winship Avenue
A.P. Number: 72-162-02
Zoning: R-1:B-10 (Single Family Residence, 10,000 sq. ft. minimum lot size)
General Plan: Medium Low Density (3-6 units per acre)
Flood Zone: Zone X (area outside the 1-percent annual chance floodplain)

II. Project Description:

Variances associated with new landscaping at the site. The applicants propose to expand a patio area within the rear yard setback (40 feet required, 25 feet proposed) and install a barbecue and trellis within the north side yard setback (15 feet required, 1 foot proposed). The landscape plan includes removal of two 6" birch trees to the south of the residence. A drainage plan for the site is under consideration.

Lot area	9,583 square feet
Approved Floor Area	33.9%
Proposed Floor Area	33.9% (20% permitted)
Existing Lot Coverage	29.3%
Proposed Lot Coverage	29.3% (20% permitted)
Existing Impervious Areas	47.0%
Proposed Impervious Areas	35.0%

The garage is nonconforming in setbacks.

III. Discussion

The Town Council considered this application at the June 2010 Town Council meeting and continued the application to allow the applicant to submit a drainage plan. Council members were not in support of the request to remove the maple tree.

The applicant has submitted a drainage plan. Town hydrologist Matt Smeltzer reviewed the plan and made recommendations outlined in the attached letter. Public works director Mel Jarjoura is not in support of an encroachment permit for the drainage work proposed between the sidewalk and the street. The project architect has agreed to revise the plan to address Mr. Smeltzer's concerns, and to move all drainage facilities on site.

The project architect revised the driveway plan to preserve the maple tree. Becky Duckles, town arborist, inspected the tree and recommends that it be preserved. She recommends that the applicant avoid excavating around the two maples and the Japanese maple, since the tree roots will be close to the surface. The trenches for the

drainage should be hand dug under the supervision of an arborist. If the tree roots are disturbed, the maple trees are susceptible to verticillium, a fungus that will attack the tree and is difficult to control.

As of the date of this report, staff and the applicant have not been able to contact the owner of 55 Winship, the site adjacent to the proposed barbecue area and trellis. Due to the respective elevations of the properties, the historic location of the side patio area, and the location of the 55 Winship garage along the property line, staff does not believe approval of the variance will have any negative impact on that site.

IV. Recommendation, Findings, & Conditions

Absent any neighbor concerns, staff recommends approval of the project with the following findings and conditions:

Findings:

1. There are special circumstances or conditions applicable to the land, building or use referred to in the application that justify the variances requested because the applicant's lot is constrained by the siting of the historic residence at the center of the site.
2. Granting of the application is necessary for the preservation and enjoyment of substantial property rights. Permitting the variances will allow the applicant to build a reasonably sized patio areas and a barbecue area.
3. Granting of 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 project is well screened from neighbors and the project will result in an overall improvement to the existing landscaping. The proposed barbecue and patio area sits below the level of the adjacent yard, which will reduce its impact to the neighbor.
4. This project is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15304, minor alterations to land.

Conditions:

1. The removal of the maple is not approved. Grading shall be avoided within the dripline of protected trees and trenching for drainage and utilities shall be performed by hand and under the supervision of an arborist on site during the work.
2. The drainage plan shall be modified to locate all drainage facilities on site and to incorporate changes recommended by Matt Smeltzer, town hydrologist. Revised drainage plans shall be submitted to the building department and installed prior to project final.
3. The work within 5 feet of the property line shall be one-hour fire assembly material or shall be moved at least 5 feet from the property line.
4. Landscaping shall be installed as shown on the approved plans prior to project final.
5. All landscape and irrigation plans must be designed in accordance with the most current Marin Municipal Water District (MMWD) landscape requirements. The

- applicant shall demonstrate to the planning department staff that the project complies with the MMWD requirements, or is exempt.
6. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
 7. **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 for review and approval prior to the issuance of any building permits or construction in conflict with the approved plans.
 8. **FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY JULY 15, 2011 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.**
 9. 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.
 10. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
 11. 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.
 12. 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.