

To: Mayor and Ross Town Council
 From: Elise Semonian, Senior Planner
 Re: Haas, 10 Morrison Road, Design Review and After-the-fact Variance, File 1757
 Date: February 2, 2012

I. Project Summary

Owner: Margaret E. Haas
 Location: 10 Morrison Road
 A.P. Number: 72-051-02
 Zoning: R-1:B-5A (Single Family Residence, 5-acre minimum lot size)
 General Plan: Very Low Density (.1 - 1 units per acre)
 Flood Zone: Zone X (outside of 1-percent annual chance floodplain)

II. Project Description

Design review of retaining walls, up to 5' 4" tall, associated with a generator pad behind the garage. After-the-fact request for setback variance to allow a hot tub installed within the front yard setback (25 feet required, 14 feet proposed).

Gross Lot Area	35,126 sq. ft.	
Net Lot area	28,173 sq. ft.	
Existing Floor Area	15.3%	
Proposed Floor Area	15.3%	(15% permitted)
Existing Lot Coverage	13.7%	
Proposed Lot Coverage	14.0%	(15% permitted)
Existing Impervious Areas	unknown	
Proposed Impervious Areas	increase of 0.2%, or 60 sq. ft.	

III. Discussion

The Town Council approved design review and variances associated with an addition at the site in 2009. At final inspection on the project, planning staff discovered that a hot tub, previously located where the addition was constructed, was located within the front yard setback. The applicant filed this application to allow the hot tub to remain where it is located.

Staff believes that findings may be made for the setback variance requested for the hot tub (see findings below, and applicant's findings attached).

Design review approval is requested in order to construct a pad for a generator behind the garage. Design review is required for any wall over four feet tall. The wall will not be visible. The location allows the generator to be screened from view and places it in a location where its occasional use will not disturb neighbors. The project adds less than one-quarter of one percent of new impervious surface to the site. The design review guidelines recommend that pre-existing impervious surfaces be reduced, not increased. However, staff does not anticipate the 0.2% increase in impervious surfaces will increase

stormwater runoff from the site. Staff is supportive of the applicant's efforts towards emergency preparedness.

IV. Recommendation, Findings, & Conditions

Staff recommends that the Town Council approve the project subject to the following findings, the applicant's findings (attached), and conditions:

Findings:

1. 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 15303(e) as accessory structures.
2. 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 historic siting of the residence and the location of the Morrison Road, a private road that runs around approximately 75% of the site. Since the setbacks are measured from the edge of the right-of-way, not the edge of the road, a setback variance is necessary because the hot tub is within 25 feet of the road right-of-way, although over 25 feet from the edge of the pavement.
3. Granting of the application is necessary for the preservation and enjoyment of substantial property rights. Permitting the variances will allow the applicant to retain a hot tub.
4. 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. Granting the setback variances will not be detrimental to the neighborhood since the addition will have a 25-foot setback from the edge of the road and there is also a sufficient land buffer between this site and the adjacent residences.
5. The project is consistent with the purpose of the Design Review Chapter as outlined in RMC Section 18.41.010 and is in substantial compliance with the design criteria of Section 18.41.100. The retaining walls will not be visible to the public and the increase in impervious surfaces is less than ¼ of 1% and not anticipated to create any measurable amount of site runoff.
6. As conditioned, the project is consistent with the Ross general plan and zoning ordinance.

Conditions:

1. A building or electrical permit may be required for the wall and work associated with the hot tub. Contact the Town building official for details.
2. No changes from the approved plans, before or after project final, 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 any change.
3. 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.

4. 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. As provided in Municipal Code Section 15.50.040 construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all conditions of application approval, including required landscaping; and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.
5. Failure to secure required building permits and/or begin construction by February 9, 2013 will cause the approval to lapse without further notice.
6. 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.