

To: Mayor and Ross Town Council  
From: Elise Semonian, Senior Planner  
Re: Fradelizio, 6 Skyland Way, Variance and Design Review, File No 1691  
Date: July 3, 2008

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**I. Project Summary**

Owner: Paul Fradelizio  
Location: 6 Skyland Way  
A.P. Number: 72-201-01  
Zoning: R-1:B-A (Single Family Residence, One-Acre Min. Lot Size)  
General Plan: Low Density (1- 3 Unit per Acre)  
FIRM Designation: Zone C (Area of minimal flooding)  
Draft FIRM Designation: Zone X (flood area outside the 100-year floodplain)

**II. Project Description**

Design review and variance to allow the repair of an existing deck and construction of a 350 square foot addition to the deck.

Lot area	17,764 square feet	
Existing Floor Area Ratio	11.6%	
Proposed Floor Area Ratio	11.6%	(15% permitted)
Existing Lot Coverage	13.1%	
Proposed Lot Coverage	14.9%	(15% permitted)

*The existing residence is nonconforming in setbacks.*

**III. Discussion**

The applicant is proposing deck repairs and a 350 square foot deck addition to the existing residence. He has a building permit for the remodeling work underway at the site.

This is a land-locked site which takes access over an easement across 8 Skyland Way. Based on the orientation of the existing residence, staff has determined that the south property line is the front property line and the north property line is the rear property line. The proposed deck addition complies with the required 25 foot side yard setback requirement. However, the northwest corner of the existing structure is located within the required 40 foot rear yard setback area.

Due to the encroachment into the rear setback, the existing structure is considered nonconforming. The Ross zoning ordinance regulates the modifications that may be made to nonconforming structures. A nonconforming structure may be altered so long as the exterior dimensions of the structure are not enlarged by the alteration and all other regulations are complied with. Any enlargement, extension, reconstruction or structural alteration to a nonconforming structure requires the structure to be brought into conformance with the zoning regulations (RMC §18.52.030). A variance is required for

the deck repairs and the addition since the applicant is not proposing to bring the whole structure into compliance with the current zoning regulations.

Design review is required since the project involves an extension of over 200 square feet of new floor area (RMC §18.41.020).

The Town Council may grant variances from the provisions of the zoning code where unnecessary hardships may result from the strict application of the regulations. The applicants are proposing a minor addition to the structure that complies with setback, lot coverage and floor area regulations. The applicants cannot bring the house into conformance with the regulations unless they demolish portions of the structure. The proposed deck addition will not create any new privacy concerns for neighbors as there is already existing deck in this area and the house and pool/yard area for the closest adjacent site, 88 Laurel Grove, is at a much lower elevation and far from the proposed improvements.

Based on the reasons set forth above, staff believes findings may be made to allow the deck addition to the nonconforming structure. The minor modification proposed does not warrant reconstruction of the structure to comply with current zoning regulations. The design will be in keeping with the existing structure, which is being renovated to improve its appearance.

#### **IV. Recommendation, Findings & Conditions**

Staff recommends approval of this application based on the following findings and conditions of approval:

##### **Findings:**

1. There are special circumstances or conditions applicable to the building because portions of the building would have to be demolished and reconstructed to comply with the current rear setback regulation in order to add the proposed 200 square foot deck addition.
2. Granting the variance to permit the new deck area and repairs to the existing deck area are necessary for the preservation and enjoyment of substantial property rights because the minor modification to the structure does not warrant reconstruction of the structure to comply with current zoning regulations and the existing deck is in disrepair.
3. As conditioned, the deck addition and repair work 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 design of the deck will be compatible with the existing residence. The existing and proposed deck areas are at a higher elevation and far from adjacent sites.
4. The project is consistent with the purpose of the Design Review Chapter as outlined in RMC Section 18.41.010.
5. The project is in substantial compliance with the design criteria of Design Review Section 18.41.100.
6. With approval of the setback variance, 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 Guideline Section 15304, minor alterations to land.

#### Conditions of Approval

1. The project shall be constructed in substantial conformance with the approved plans. **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 changes.
2. This project shall comply with the following requirements of the Department of Public Safety: 1.) Clear brush impinging on access roadway, roadway must have a vertical clearance of 14 feet; 2.) A street number must be posted {minimum four inches on contrasting background}; 3.) Remove and clear all dead or dying flammable materials from property (RMC Chapter 12.12).
3. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
4. 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.
5. 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.
6. **FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY JULY 10, 2008 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.**
7. 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.