



Agenda Item No. 23.

Staff Report

Date: June 14, 2018

To: Mayor Robbins and Council Members

From: Heidi Scoble, Planning Manager

Subject: Cohen Design Review and Variance Amendment at 10 Ames Avenue, File No. 2018-007

Recommendation

Town Council approval of Resolution No. 2061 approving a Design Review and Variance Amendment to remove condition of approval no. 3 of the Town Council's September 16, 2010 approval of Variance and Design Review No. 1794 and a condition of approval from the February 9, 2012 project amendment which requires "additional landscape screening along the length of the rear property line to screen the play structures from the neighbor views" for the property located at 10 Ames Avenue, APN 073-181-08.

Project Description

The applicant is requesting a Minor Exception for the construction of a seven foot tall wood fence to be installed ¼ inch from her rear property line where a maximum of a six foot tall fence would be typically permitted. The fence would be a picture frame board on board style fence made primarily of Con Heart Redwood with no stain. The bottom rails/baseboards of the fence would be a brown tone pressure treated fir. The fence would run approximately 100 feet in length and would be set in ¼ of an inch from the rear property line.

Background and Discussion

The project site is located at the end of the Ames Avenue Cul-de-sac and abuts the properties known as 7 and 9 Southwood Avenue. The project site is relatively flat with an average slope of approximately 3 percent. A single-family residence with a detached accessory structure was constructed at the project site in circa 1920.

On September 16, 2010, the Town Council approved application no. 1794 approving a Demolition Permit, Design Review, and a Variance to allow a "significant remodel and 132 square foot addition to the existing residence", in addition to the demolition of the existing carport. The Town Council continued the discussion of the substantial remodel of the garage to the October 14, 2010 meeting and approved the remodel to the residence with condition of approval no. 3 which

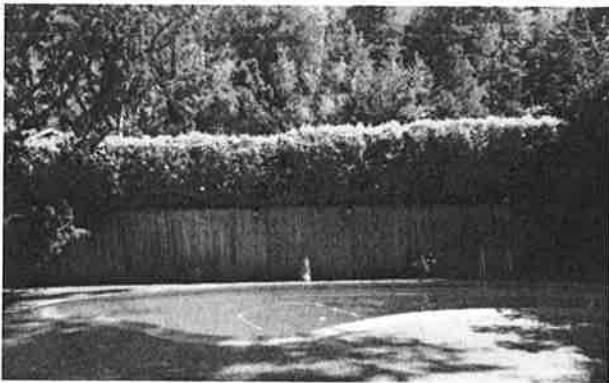
states, "Unless otherwise agreed to by the neighbors, the applicants shall maintain the hedge at the rear property line between 10 Ames and 9 Southwood at a height of approximately 15-18 feet tall, sufficient to provide screening between the two sites."

On October 14, 2010, the Town Council approved the substantial remodel to the garage and carried over all previously approved conditions of approval associated with the September 16, 2010 Town Council action.

On January 13, 2011, the Town Council approved an amendment to application no. 1794 approving a Design Review and Variance amendment to allow for landscape and hardscape modifications for the construction of a barbeque area within the west side yard setback, a patio area within the rear setback, new permeable pavers to replace the asphalt driveway, and the construction of a 6-foot tall white picket fence along the frontage of the property. The project was approved with a condition of approval that required the project to be constructed in substantial conformance with the September and October 2010 approvals.

On February 9, 2012, the Town Council approved after-the-fact, an amendment to application no. 1794 approving a Design Review and Variance amendment to allow a play structure and trampoline that was installed within the rear yard setback, the rescission of a condition that required the driveway surface to be permeable paving and allowed a concrete surface, and approval of design modification to the front porch and garage doors. The project was approved with a reference to a condition of approval to require additional landscape screening along the length of the rear property line to screen the play structure from the neighbor's view.

In 2015 the property was sold and the play structure associated with the 2012 approval was removed. Unaware of the past Town Council actions and condition of approval encumbrances, the new owners removed a well-established hedge as shown below and have since constructed a 6-foot tall fence and new planted a row of Compact Carolina Cherry Laurel trees.



Previously Existing Hedge- View From 9 Southwood Towards 10 Ames



New Fence and Cherry Laurel Trees- View Towards 9 Southwood

Since the circumstances associated with the past approvals have changed, because the new fence and tree plantings provides adequate screening and privacy between adjacent neighbors, and because the property owner at 9 Southwood Avenue has written a letter in support of the removal of the subject conditions of approval, staff recommends support of the applicant's

request to remove condition of approval no. 3 of the September 16, 2010 Town Council action and the February 9, 2012 requirement to add a condition to require additional landscape screening along the length of the rear property line to screen the play structure.

Public Comment

Public Notices were mailed to property owners within 300 feet of the project site. No other public correspondence was received by the Town other than a letter of support from Linda Bergeron, property owner at 9 Southwood Avenue (see attachments).

Fiscal, resource and timeline impacts

N/A

Alternative actions

1. Continue the project for modifications; or
2. Make findings to deny the application.

Environmental review (if applicable)

The project is was determined to be categorically exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA) Guideline Section 15301, existing facilities, because the conditions of approval are associated with existing structures that have been approved to be located in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive. No exception set forth in Section 15300.2 of the CEQA Guidelines (including but not limited to Subsection (a), which relates to impacts on environmental resources; (b), which relates to cumulative impacts; Subsection (c), which relates to unusual circumstances; or Subsection (f), which relates to historical resources, applies to the project.

Attachments

1. Resolution No. 2061
2. Project Description and Information prepared by Nina Cohen, property owner.
3. Project Photographs
4. Letter from Linda Bergeron, 9 Southwood Avenue
5. Meeting Minute Excerpts from February 9, 2012, January 13, 2011, December 8, 2011, October 14, 2010, and September 16, 2010

ATTACHMENT 1

TOWN OF ROSS

RESOLUTION NO. 2061

A RESOLUTION OF THE TOWN OF ROSS APPROVING A DESIGN REVIEW AND VARIANCE AMENDMENT TO REMOVE CONDITIONS OF APPROVALS AT 10 AMES AVENUE, 073-181-08

WHEREAS, Nina Cohen has submitted an application requesting to remove Condition of Approval No. 3 of the Town Council's October 14, 2010 approval of Variance and Design Review No. 1794 which states, "Unless otherwise agreed by the neighbors, the applicants shall maintain the hedge at the rear property line between 10 Ames and 9 Southwood at a height of approximately 15-18 feet tall, sufficient to provide screening between the two sites," and a condition of approval from the February 9, 2012 project amendment which requires "additional landscape screening along the length of the rear property line to screen the play structures from the neighbor views" associated with the property known as 10 Ames Avenue, APN 073-181-08 (the "project"); and

WHEREAS, the project was determined to be categorically exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA) Guideline Section 15301, existing facilities, because the conditions of approval are associated with existing structures that have been approved to be located in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive. No exception set forth in Section 15300.2 of the CEQA Guidelines (including but not limited to Subsection (a), which relates to impacts on environmental resources; (b), which relates to cumulative impacts; Subsection (c), which relates to unusual circumstances; or Subsection (f), which relates to historical resources, applies to the project; and

WHEREAS, on June 14, 2018, the Town Council held a duly noticed public hearing to consider the proposed project; and

WHEREAS, the Town Council has carefully reviewed and considered the staff reports, correspondence, and other information contained in the project file, and has received public comment; and

NOW, THEREFORE, BE IT RESOLVED the Town Council of the Town of Ross hereby removes the following conditions of approval associated with the Town Council's previous actions dated October 14, 2010 and February 9, 2012:

1. Unless otherwise agreed by the neighbors, the applicants shall maintain the hedge at the rear property line between 10 Ames and 9 Southwood at a height of approximately 15-18 feet tall, sufficient to provide screening between the two sites

2. Additional landscape screening shall be required along the length of the rear property line to screen the play structures from the neighbor's view.

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 14th day of June 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Elizabeth Robbins, Mayor

ATTEST:

Linda Lopez, Town Clerk

ATTACHMENT 2

This application is for removal of the conditions of approval related to landscape screening along the rear property line at 10 Ames Avenue that were adopted and approved at the October 14, 2010 and February 9, 2012 Town Council hearings.

The October 14, 2010 decision was related to a variance and design review application for a significant remodel of the existing garage/shed structure at the northeastern corner of the site. The variance was required because the structure occupied a portion of the rear and side yard setbacks. Condition of approval 3 requires the maintenance of the existing hedge at the rear property line at a height of approximately 15-18 feet tall, sufficient to provide screening between the two sites – the other site being 9 Southwood Avenue. Efforts to understand historical screening conditions between the two properties reveal that the hedge was never that tall.

According to the meeting minutes from February 9, 2012, this landscaping condition was tied to screening for a play structure from neighbors' view; the play structure no longer exists on the property.

The garage at 10 Ames Avenue is not visible from 9 Southwood Avenue; the former play structure was removed in 2015 when Bradley and Kristin Matsik sold their home; and, the height of the hedge when the Matsik's sold their home was approximately 12 feet in height. The hedge was in poor condition and was eventually replaced with new mature landscaping, currently measuring approximately 12 feet tall.

For these reasons, Linda Bergeron, the owner of 9 Southwood Avenue, and the only owner benefiting from these conditions of approval, has submitted a letter of support for our application to remove any conditions of approval regarding minimum landscaping screening along the rear property line at 10 Ames Avenue. Her letter is attached.

We understand that a standard condition of approval for design review applications is for the Council to retain jurisdiction to review the success of landscaping plans for up to 3 years post approval. This makes logical sense since it is a limited time and provides flexibility to address changed circumstances over a manageable period. From a public policy perspective, we suggest that the Town should not put itself in a position to be arbiters of landscaping in perpetuity.

We respectfully request that the Council take notice of the efforts between the private parties to reach agreement on this matter and approve the application as submitted.

Sincerely,

Nina R. Cohen

ATTACHMENT 3











ATTACHMENT 4

January 5, 2018

Heidi Scoble
Planning Manager
Town of Ross
31 Sir Francis Drake Blvd.
Ross, CA 94957

RE: 10 Ames Avenue Landscape Condition of Approval

Dear Ms. Scoble,

My name is Linda Bergeron and I am the owner of 9 Southwood Avenue in Ross. I am writing to express my support for removal of any conditions of approval regarding minimum landscape screening condition that burden the property at 10 Ames Avenue, my rear yard neighbor. Specifically, the conditions read:

Unless otherwise agreed to be the neighbors, the applicants shall maintain the hedge at the rear property between 10 Ames and 9 Southwood at a height of approximately 15-18 feet tall, sufficient to provide screening between the two sites. (October 4, 2010 Minutes).

AND

To require additional landscape screening along the length of the rear property line to screen the play structures from neighbor views. (February 9, 2012 Minutes).

These conditions of approval were adopted as part of a prior discretionary review permits and are no longer applicable or necessary – the play structures were previously removed. As the owner of the only property benefiting from the conditions of approval, I respectfully request that you agendaize any application to remove the conditions on the Town Council's consent calendar since I do not intend to attend the hearing and any controversy pertaining to the landscaping has been resolved between the neighbors.

Thank you in advance for your time and consideration regarding this issue and please contact me with any questions or concerns.

Sincerely,



Linda Bergeron
9 Southwood Avenue

ATTACHMENT 5

REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, FEBRUARY 9, 2012

1. 6.00 p.m. Commencement.

Present: Mayor Carla Small; Mayor Pro Tempore Rupert Russell; Council Member Scot Hunter; Council Member Chris Martin; and Town Attorney Greg Stepanicich (*arrived @ 7:04 p.m.*)

30. 10 Ames Avenue, After-the-fact Variance and Design Review No. 1794

Bradley and Kristen Matsik, 10 Ames Avenue, A.P. No. 73-181-08, R-1:B-20 (Single Family Residential, 20,000 sq. ft. min. lot size), Low Density (1-3 Units/Acre). After-the-fact request for setback variance and an amendment to the October 14, 2010 and January 13, 2011, variance and design review approvals to allow: 1.) a play structure and trampoline installed within the rear yard setback (40 feet required, 5 feet proposed); 2.) rescission of a condition that required the driveway surface to be permeable paving to allow concrete; and 3.) approval of design modifications including a change in the form of the front porch roof and the garage doors.

Effective lot area	17,935 square feet
Existing Floor Area Ratio	22.5%
Approved/Proposed Floor Area Ratio	19.3% (15% permitted)
Existing Lot Coverage	27.5%
Approved/Proposed Lot Coverage	25.9% (15% permitted)
Existing Impervious Areas	25.0%
Approved Impervious Areas	11.7%
Proposed Impervious Areas	12.5%

The existing residence and garage are nonconforming in setbacks.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the modification to the design of the roof and the garage, play structures, and revised site plan subject to the findings and conditions of the January 2011 project approval, modifying Condition No. 2 as follows: *"Site drainage modifications shall be installed as shown on the approved Drainage Mitigation Measures plan dated January 17, 2012 prior to project final."*

Staff further recommended adding a condition to require additional landscape screening along the length of the rear property line to screen the play structures from neighbor views.

Brad Matsik, applicant, explained that gravel will go all the way to the gate and they will maintain the curb for runoff purposes. There will be essentially a gravel bed about 10 ft. wide and 60 ft. long from the street to the gate, which will eliminate any runoff. He further noted that they will be installing a swale on the west side of the property, which is on the opposite side of the driveway.

Mayor Small opened the public hearing on this item, and seeing no one wishing to speak, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

The Council had no objection and believed it will be much improved in terms of managing the water.

Mayor Small asked for a motion.

Council Member Martin moved and Council Member Hunter seconded, to approve the modification to the roof, the garage play structures and the revised site plan relative to the drainage at 10 Ames Avenue subject to the findings and conditions outlined in the staff report, including the additional landscaping condition in the vicinity of the play structures. Motion carried unanimously. Strauss absent.

10 Ames Avenue Conditions:

Move to approve the modifications to the design of the roof and the garage, play structures, and revised site plan subject to the findings and conditions of the January 2011 project approval, modifying condition No. 2 to read, "*Site drainage modifications shall be installed as shown on the approved Drainage Mitigation Measures plan dated 1/17/12 prior to project final*" and adding a condition to require additional landscape screening along the length of the rear property line to screen the play structures from neighbor views.

REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, DECEMBER 8, 2011

The community was invited to meet Pat Thompson, new Interim Town Manager, from 6:00 to 6:30 p.m. in Town Hall prior to the meeting.

28. 10 Ames Avenue, Amendment to Variance and Design Review Permit No. 1794
Bradley and Kristen Matsik, 10 Ames Avenue, A.P. No. 73-181-08, R-1:B-20 (Single Family Residential, 20,000 sq. ft. min. lot size), Low Density (1-3 Units/Acre), Flood Zone X (outside 1-percent annual chance floodplain). After-the-fact request for setback variance and an amendment to the October 14, 2010 and January 13, 2011, variance and design review approvals to allow: 1.) a play structure and trampoline installed within the rear yard setback (40 feet required, 5 feet proposed); 2.) rescission of a condition that required the driveway surface to be permeable paving to allow concrete; and 3.) approval of design modifications including a change in the form of the front porch roof and the garage doors.

Effective lot area	17,935 square feet
Existing Floor Area Ratio	22.5%
Approved/Proposed Floor Area Ratio	19.3% (15% permitted)
Existing Lot Coverage	27.5%
Approved/Proposed Lot Coverage	25.9% (15% permitted)
Existing Impervious Areas	38.5%
Approved Impervious Areas	28.7%
Proposed Impervious Areas	36.4%

The existing residence and garage are nonconforming in setbacks.

Senior Planner Elise Semonian summarized the staff report and regarding the variance for the play structures, staff recommends that the Council consider the public testimony and advise the applicant if findings may be made to support the setback variances requested. Staff also recommends that the Council approve the modifications to the design of the roof and the garage subject to the findings and conditions of the January 2011 project approval. If the Council would like to approve the solid driveway surface, staff would modify Condition No. 2 as follows: *"Prior to project final, the applicants shall submit a drainage plan for review and approval by the town hydrologist that demonstrates that the project will result in no net increase in the rate and volume of site runoff. Mitigation may be required to meet the no net increase standard. Upon approval, the project shall be considered complete as of October 21, 2011, the date construction was completed."*

Project Landscape Architect explained that to remove the entire driveway became cost prohibitive and most of the driveway was still usable and functional. As the project progressed, they decided to leave more than half of the driveway because it was still functional and perfectly usable. Due to cracking, a portion of the driveway did need to be replaced. They ended up removing the section of the driveway closest to Ames Avenue with the understanding to maintain their site water onsite. They developed an infiltration gallery under the driveway so there is 12-inches of permeable drain rock under the driveway with perforated pipe. They directed the roof water into the infiltration gallery in order to take up the amount of water that a porous driveway would have taken. The net runoff from the driveway as built is no different from the net runoff of an entirely porous surface. They reduced their net driveway by 2%. The new patio is slightly larger, but reduced the impervious surface in the area adjacent to the garage. They are very cognizant of balancing their impervious and pervious surfaces. They also

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have several oak trees on the site and to remove the upper portion of the driveway adjacent to the garage would expose the roots of a huge valley oak, so there are many considerations that must be taken into account in regard to the driveway.

Mayor Small desired an explanation of the drainage plan in regard to all the downspouts. If cost was a factor, gravel could have been used, so she desired to know what the drainage plan was regardless of the actual driveway covering. Project Landscape Architect responded that they would have had a regular porous pavement driveway with the standard profile. With the original drainage plan, all the original downspouts would have sheet flowed right into the ground or planting beds. They had to balance keeping water away from the foundation and keeping water from traveling off site.

Council Member Martin stated to handle a one hour duration it would hit capacity during a heavy rain storm. It is moved away from the foundation of the house, but they are pushing the water off site during a heavy storm. Project Landscape Architect explained that the infiltration gallery was very close to the possible capacity of that one hour, so it depends on the soils being saturated. They observed over the course of construction that this water percolates very well. They calculated the areas of the roof, impervious surface of the driveway and background, so they tried to get as close as possible.

Council Member Martin discussed cost and asked the cost estimate for the driveway replacement. Project Landscape Architect responded that the overall replacement cost for the pervious driveway was over \$40,000. Council Member Martin noted that there was a change to place slate on the roof from what was originally proposed, which increased the price. He wondered if there was a conscious decision to not do the stormwater improvements that were part of the project and instead do an aesthetic change. Project Landscape Architect felt they had a good alternative to handle the stormwater and stated that it was not a trade off on something else on the house.

Mayor Small stated part of the difficulty is that they did not come before the Council first. She added that staff works very hard developing conditions and so much thought is put into the project from both staff and the applicant and reviewing this after-the-fact puts the Council in a very tough decision.

Bradley Matsik, applicant, stated when they made the decision to make the change on materials it was a gradual decision over a period of a number of months. There were concerns regarding the oak tree. It did not occur to him that it was part of the condition of approval the entire landscape approval. He wanted better drainage and wanted to maintain as much permeable surface on the project as possible. The overall percentage of pervious surface has increased, so they certainly have better drainage. On November 5th they had a brief period of rain and the drain worked very well. He added that there was no intent to mislead or conceal anything from the Council. At the end of the day, they maintained the spirit of the conditions of approval, which was to maximize the impervious surface, making improvements to the lot and keeping runoff off the lot minimized.

Council Member Hunter pointed out that the permeable surface changed, but there were design changes to the house and the play area all along the back fence. He added that the Town has rules. Mr. Matsik indicated that the play structure was totally his fault. He placed the play structure away from the street in the corner for his kids to play and to be safe.

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Tom Levine, project designer, discussed the garage changes and explained that the initial use for the door was for bicycles and the play area. Once they changed to a permeable surface it seemed more logical to have another garage door to have access. All they did was trade a door on the side for a door in front. There is still a totally usable one car garage as proposed. In terms of the change to the roof in front, it was to appear more attractive, but the porch coverage is the same. He further noted that the hip roof would show the slate more than several gables from the street.

Mayor Small opened the public hearing on this item.

Carland Nicholson, Garden Road resident, does not understand granting variances for play structures, especially this play structure since it is so close to the setback. A play structure is only used for a period of time and to grant a variance it means this play structure will be present forever. There is a problem in Ross because people buy small lots and then want to fully develop the lots and there is not room with proper setbacks. When her children were small, she took them to Pixie Park to play because they also have a small lot.

Peter Nelson, Circle Drive resident, believed permeable driveways should be the focus in Town due to runoff. One common design is to have a filtration gallery where there is a base of rock, which serves underneath permeable pavers as a retention pond. Rather than having a 2% decrease it would be the 25% permeable surface. There is a pattern of not getting all aspects completed and following the rules. In terms of architects and professionals, it is not that unusual to state that if the plans are changed that they must be reviewed again. There are a number of issues presented and the permeable driveway cost is questionable.

Project Landscape Architect noted that the overall change in stormwater management improved, so there are many ways to skin this cat. Also, permeable pavers are not the be all end all to stormwater management. They clog easily, are difficult to maintain properly and do not always have that infiltration gallery. Just because the surface of this driveway is impermeable, does not mean that the permeability of the ground underneath has changed.

Council Member Strauss stated whether this solution went far enough or not he did not know, but ordinances are in place for a reason.

Mayor Pro Tempore Russell believes Town Hydrologist Matt Smeltzer basically interprets the stormwater ordinance in a way that is fundamentally undermined. When there is flooding that drainage is clogged, which does not help. The best way to mitigate flooding is to take away impervious surfaces. For him, they must change the stormwater ordinance or have FAQs of its interpretation of no increase in impervious surfaces, especially within the flood zone. They built a beautiful property and is very sympathetic to the arguments being made, but he comes from a different point of view that the work being done with Town Hydrologist Smeltzer is undermining the spirit of what was intended for the stormwater ordinance, which must stop. They must either change the policy or have a policy of no increase in impervious surfaces.

Council Member Hunter noted that the Council was promised 28.7% and they have 36.4%, so he recommended continuing this project and have the applicant figure out how they will get to 28.7%. The Council agreed.

Mayor Pro Tempore Russell did not want to make the flooding situation any worse in this Town. Council Member Martin stated that was the purpose of the stormwater ordinance to develop very strong standards to reverse inaccurate situations.

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Mr. Matsik pointed out that when they started this project the existing impervious area was 38.5%, and they ended up at 36.4%. They also added the infiltration drain, which contains a large amount of runoff. There is less impervious surface now than when the project started. He further noted that they went to some expense to add the infiltration drain. Council Member Hunter stated there were tradeoffs and part of it was to bring the impervious areas down to 28.7%.

Mayor Pro Tempore Russell asked staff if there is a way to place a time limit on the play structure. Town Attorney Greg Stepanicich explained that it would be permissible to set a time limit on play structures, but enforceability is very difficult. Mayor Small views play structures as a more temporary structure and desired input from neighbors because they are more impacted. Whereas with a permanent structure, she rather carry the burden of making a decision and not rest it on the burden of the neighbor because it really is the burden of what the Town's code is and policy. She further added that the neighborhood approved the play structure.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

The Council directed the applicant to return with a plan that reduces the impervious surfaces to what was approved when the landscape plan was approved. Mayor Pro Tempore Russell further believed "*no net increase*" should be interpreted as "*no net increase of impervious surface*" on the site.

Mayor Small asked for a motion.

Council Member Hunter moved and Council Member Strauss seconded, to continue the matter to a date uncertain to provide the applicant an opportunity to return and demonstrate how they achieved the previous approved percentage. Motion carried unanimously.

29. Adjournment.

Mayor Small moved to adjourn at 12:10 a.m.

Carla Small, Mayor

ATTEST:

Linda Lopez, Interim Town Clerk

REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, JANUARY 13, 2011

1. 5:30 p.m. Commencement.

Present: Mayor Chris Martin; Mayor Pro Tempore Carla Small; Council Member Rupert Russell; Council Member Rick Strauss; and Town Attorney Hadden Roth

20. 10 Ames Avenue, Amendment to Variance and Design Review No. 1794
Bradley and Kristen Matsik, 10 Ames Avenue, A.P. No. 073-181-08, R-1:B-20 (Single Family Residential, 20,000 sq. ft. min. lot size), Low Density (1-3 Units/Acre).
Amendment to plans approved on October 14, 2010, for a significant remodel of the residence and garage. The applicant requests setback variances associated with landscape improvements including a new barbeque area within the west side yard setback (13.25 feet proposed, 20 feet required) and patio area within the rear yard setback (29' proposed, 40 feet required). New permeable paving is proposed to replace the asphalt driveway surface. Design review is requested for a new 6' tall painted wood picket fence at the front property line (4' permitted).

Effective lot area	17,935 square feet
Existing Floor Area Ratio	22.5%
Proposed Floor Area Ratio	19.3% (15% permitted)
Existing Lot Coverage	27.5%
Proposed Lot Coverage	25.9% (15% permitted)
Existing Impervious Areas	22.9%
Proposed Impervious Areas	8.3%

The existing residence and garage are nonconforming in setbacks.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the project as submitted subject to the findings and conditions outlined in the staff report.

Kristine Matsik, applicant, had nothing further to add to the presentation.

Mayor Martin opened the public hearing on this item.

Loraine Berry, Ames Avenue resident, expressed concern for the 6-foot fence in front, which is out of character with the neighborhood. She added that no one discussed such a fence with her and further objected to a 6-foot barricade. Senior Planner Semonian pointed out that the notice did include the 6-foot fence, but the applicants have since withdrawn the taller fence request from the application.

Mayor Martin commented on the tree material and how the oaks were protected and commended Town staff and the applicant for trying to protect those oak trees. The contractor is not parking any heavy material over the drip line of those trees, which is a procedure welcomed by the community.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

Mayor Pro Tempore Small appreciated the lighting plan. She believed it is nice outdoor living. In order to preserve the trees in front and how the lot is configured, it pushed the applicant into the setback. She had concerns about the fire pit, but after visiting the site, it is a nice plan as configured.

Council Member Russell found it hard to figure out the location of the barbeque when visiting the site. Given that all the affected neighbors are supportive, he noted support as well.

Mayor Martin and Council Member Strauss had no objection to the project.

Mayor Martin asked for a motion.

Council Member Strauss moved and Mayor Pro Tempore Small seconded, to approve the Matsik, 10 Ames Avenue, Amendment to Demolition Permit and Variance for landscape improvements as submitted. Motion carried unanimously. Hunter absent.

Conditions of Approval for 10 Ames landscaping:

This approval is for the site landscape improvements but not for the application for the proposed 6-foot tall fence, which has been withdrawn. These conditions shall be reproduced on the plans submitted for a building permit:

1. The project shall substantially comply with the plans approved by the Town Council, dated December 18, 2010, except as otherwise provided below.
2. The asphalt driveway shall be removed and replaced with pavers set on sand or gravel material. The pavers selected and the base material shall allow for water absorption. The driveway shall not be resurfaced with an impervious surface without prior Town Council approval.
3. The front yard landscaping shall be designed with plants and irrigation that is compatible with the water requirements of the large oak trees.
4. The barbecue area shall have a 10-foot clearance from overhanging vegetation.
5. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN PLANNER 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 prior to any modification.
6. All new fireplaces shall be gas or EPA certified woodstoves that are Phase II certified or equivalent.
7. A Revocable Encroachment Permit is required from the Public Works Department for all work within the right-of-way.
8. The landscaping shown on the approved plans shall be installed prior to project final.
9. Any portable toilets shall be placed off the street and out of public view. Project development shall comply with the requirements of the Ross Valley Sanitary District.
10. 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.

11. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY JANUARY 13, 2012, WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
12. 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.
13. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
14. 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.
15. 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.

27. **Adjournment.**

By order of Mayor Martin, the meeting adjourned at 10:55 p.m.

Christopher Martin, Mayor

ATTEST:

Gary Broad, Town Manager

REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, OCTOBER 14, 2010

I. 6:30 P.M. Commencement.

Present: Mayor Martin; Mayor Pro Tempore Small; Council Member Hunter, Council Member Russell; Council Member Strauss; and Town Attorney Hadden Roth

13. Consent Agenda.

The following two items will be considered in a single motion, unless removed from the consent agenda:

a. 10 Ames Avenue, Variance and Design Review No. 1794

Bradley and Kristen Matsik, 10 Ames Avenue, A.P. No. 73-181-08, R-1:B-20 (Single Family Residential, 20,000 sq. ft. min. lot size), Low Density (1-3 Units/Acre).

Variance and design review for a significant remodel of the existing garage/shed structure at the northeast corner of the site. The structure would have a new roof with a maximum ridge height of 14.3 feet. The existing garage/shed structure is located within the required rear yard setback (5 feet existing, 10 feet required) and side yard setback (1 foot existing, 10 feet required).

Lot area	19,800 square feet
Effective lot area (less roadway easement)	17,980 square feet
Existing Floor Area Ratio	22.4%
Proposed Floor Area Ratio	19.2% (15% permitted)
Existing Lot Coverage	27.4%
Proposed Lot Coverage	25.9% (15% permitted)

The existing residence, carport and garage are nonconforming in setbacks.

Mayor Martin asked for a motion.

Council Member Strauss moved and Council Member Hunter seconded, to approve Consent Calendar Item "a" as submitted by staff. Motion carried unanimously.

Conditions of Approval for 10 Ames Avenue:

These conditions shall be reproduced on the plans submitted for a building permit:

1. The project shall substantially comply with the plans approved by the Town Council, dated September 3, 2010, except as otherwise provided below.
2. The garage shall comply with building code requirements for fire safety.
3. Unless otherwise agreed to by the neighbors, the applicants shall maintain the hedge at the rear property line between 10 Ames and 9 Southwood at a height of approximately 15-18 feet tall, sufficient to provide screening between the two sites.
4. The applicant shall submit a construction management plan for the review and approval of the building and public works department prior to issuance of the building permit. The construction management plan shall specifically detail parking

- areas for construction vehicles, with the goal of maintaining neighbor access and protection of neighbor landscaping. The planning department shall provide the Ames Avenue neighbors with at least two weeks to review and comment on the plan before it is approved.
5. The intent of the demolition permit is to allow demolition of most interior walls of the structure, demolition of the roof and demolition of exterior walls as necessary for the installation of new windows and doors and to modify the roofline as proposed.
 6. **NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN PLANNER 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 prior to any modification.
 7. The new fireplaces shall be gas or EPA certified woodstoves that are Phase II certified or equivalent.
 8. A Revocable Encroachment Permit is required from the Public Works Department for all work within the right-of-way.
 9. The landscaping shown on the approved plans shall be installed prior to project final.
 10. This project shall comply with the following requirements of the Department of Public Safety: 1.) A street number must be posted {minimum four inches on contrasting background}; 2.) A 24 hour monitored alarm system is required; 3.) Sprinklers are required; and 4.) Remove and clear all dead or dying flammable materials per RMC Chapter 12.12.
 11. 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.
 12. 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.
 13. **FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY SEPTEMBER 3, 2011, WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.**
 14. 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.
 15. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
 16. 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.
 17. 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.

23. Adjournment.

By order of Mayor Martin, the meeting adjourned at 11:16 p.m.

Christopher Martin, Mayor

ATTEST:

Gary Broad, Town Manager

SPECIAL MEETING of the ROSS TOWN COUNCIL THURSDAY, SEPTEMBER 16, 2010

1. 6:30 P.M.

Present: Mayor Martin; Mayor Pro Tempore Small; Council Member Hunter, Council Member Russell; Council Member Strauss; and Town Attorney Hadden Roth

10. Consent Agenda.

The following six items will be considered in a single motion, unless removed from the consent agenda:

Council Member Hunter pulled Agenda Item No. 10b, 36 Glenwood Avenue, for further discussion. Senior Planner Elise Semonian pulled Agenda Item 10e, 10 Ames Avenue. Staff's recommendation for 10 Ames Avenue would be to limit the approval to the improvements proposed to the residence and demolition of the carport and the Council should continue consideration on the garage structure, since there was not adequate notice of the changes proposed to the garage. Also, staff recommended the addition of a condition regarding allowing the rear yard hedge to grow up to 18 feet tall to provide additional screening to neighbors. Staff further pulled Agenda Item 10f, 17 upper Ames Avenue, in order to address story poles and neighbor acknowledgments.

10e. 10 Ames Avenue, Variance and Design Review No. 1794

Bradley and Kristen Matsik, 10 Ames Avenue, A.P. No. 73-181-08, R-1:B-20 (Single Family Residential, 20,000 sq. ft. min. lot size), Low Density (1-3 Units/Acre). Variance, design review and demolition permit application to allow a significant remodel and 132 square foot addition to the existing residence, partially within the rear yard setback (31 feet proposed, 40 feet required). The exterior changes involve replacement of windows and doors, modifications to roof forms to the rear of the structure (potentially rebuilding the main roof form), construction of a new front porch, and demolition of the carport.

Lot area	19,800 square feet
Existing Floor Area Ratio	20.4%
Proposed Floor Area Ratio	17.5% (15% permitted)
Existing Lot Coverage	20.4%
Proposed Lot Coverage	17.5% (15% permitted)

The existing residence, carport and garage are nonconforming in setbacks.

Senior Planner Elise Semonian reiterated that staff's recommendation would be to limit just the improvements to the residence and demolition of the carport and the Council should continue consideration on the garage structure. Also, staff recommended the addition of a condition requiring the rear yard hedge to grow up to 18 ft to provide additional screening to the applicant. Staff further agreed to answer any questions of the Council and audience.

Mayor Martin opened the public hearing on this item.

Loraine Berry, Ames Avenue resident, expressed concern for street parking for construction vehicles. Senior Planner Semonian noted that there is limited parking. A construction management plan could be included as a condition of approval. Staff further noted that it is not a large scale project. Mayor Martin recommended setting some reasonable restrictions on parking.

Cindy Livingsworth, Ames Avenue resident, expressed concern for street parking as well and construction vehicles running over her trees and shrubs. She further expressed concern for the safety of twelve children on that street walking to and from school, so the matter must be addressed.

Senior Planner Semonian recommended that the Council require a construction management plan and that neighbors be given an opportunity to review and comment on the plan before it is approved by the Town. Also, she recommended that the Council add the draft condition provided to council regarding the hedge, which the applicants have reviewed and approved. Staff recommended the Council continue discussion on the modifications proposed to the garage. The modifications are more extensive than what was described in the notice and must be re-noticed and should next month for discussion and action.

The Matsik's project builder noted that they plan on modifying the garage and they must erect story poles depicting the new peak of the garage. He further noted that everything else is within the scope of their work.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for action.

Mayor Martin asked for a motion.

Mayor Pro Tempore Small moved and Council Member Russell seconded, to approve Item No. 10e, 10 Ames Avenue, as conditioned by staff; to include a construction management plan; keeping the hedge between 15 to 18 ft.; and have the applicant return to the Council to address the garage modifications once story poles are erected. Motion carried unanimously.

Conditions of Approval for 10 Ames Avenue:

These conditions shall be reproduced on the plans submitted for a building permit:

1. The project shall substantially comply with the plans approved by the Town Council, dated September 3, 2010, except as otherwise provided below.
2. The garage work is continued to the October 2010, Town Council meeting for proper noticing and the installation of story poles.
3. Unless otherwise agreed to by the neighbors, the applicants shall maintain the hedge at the rear property line between 10 Ames and 9 Southwood at a height of approximately 15-18 feet tall, sufficient to provide screening between the two sites.
4. The applicant shall submit a construction management plan for the review and approval of the building and public works department prior to issuance of the building permit. The construction management plan shall specifically detail parking areas for construction vehicles, with the goal of maintaining neighbor access and protection of neighbor landscaping. The planning department shall provide the

Ames Avenue neighbors with at least two weeks to review and comment on the plan before it is approved.

5. The intent of the demolition permit is to allow demolition of most interior walls of the structure, demolition of the roof and demolition of exterior walls as necessary for the installation of new windows and doors and to modify the roofline as proposed.
6. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN PLANNER 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 prior to any modification.
7. The new fireplaces shall be gas or EPA certified woodstoves that are Phase II certified or equivalent.
8. A Revocable Encroachment Permit is required from the Public Works Department for all work within the right-of-way.
9. The landscaping shown on the approved plans shall be installed prior to project final.
10. This project shall comply with the following requirements of the Department of Public Safety: 1.) A street number must be posted {minimum four inches on contrasting background}; 2.) A 24 hour monitored alarm system is required; 3.) Sprinklers are required; and 4.) Remove and clear all dead or dying flammable materials per RMC Chapter 12.12.
11. 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.
12. 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.
13. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY SEPTEMBER 3, 2011, WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
14. 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.
15. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
16. 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.
17. 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.

21. **Adjournment.**

By order of Mayor Martin, the meeting adjourned at 11:38 p.m.

Christopher Martin, Mayor

ATTEST:

Gary Broad, Town Manager