



**Staff Report**

**Date:** November 6, 2014  
**To:** Mayor Elizabeth Brekhus and Councilmembers  
**From:** Elise Semonian, Senior Planner  
**Subject:** Lloyd, Basement Exception Application, 54 Wellington Avenue, File 1979

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**Recommendation**

Council approve the project subject to the findings and conditions attached.

**Project Summary**

**Owner:** Michael and Justyna Lloyd  
**Design Professional:** Jeff Kroot, Architect  
**Location:** 54 Wellington Avenue  
**A.P. Number:** 72-121-28  
**Zoning:** R-1:B-10 (Single Family Residence, 10,000 sq. ft. min. lot size)  
**General Plan:** Medium Low Density (3-6 units per acre)  
**Flood Zone:** Zone X (outside 1-percent annual chance floodplain)

Request to modify project under construction for a floor area exception under Chapter 18.46 of the Ross Zoning Code (Exceptions for Basements and Attics) to permit property owner to improve an area below the front porch and entry for finished storage space. One new window is proposed on the east side of the room, where lattice doors were located.

Lot Area	19,516 square feet
Approved Floor Area Ratio	3,846 sq. ft. 19.7%
Proposed Floor Area Ratio	4,046 sq. ft. 20.7% (20% permitted)
Approved/Proposed Lot Coverage	2,379 sq. ft. 12.2% (20% permitted)
Approved/Proposed Impervious Surfaces	1,810 sq. ft. 9.3%

### **Background and discussion**

The design review and variance project approved by the Council in March is under construction at the site. The project included raising the house by approximately 18" to add a slab to the lower level, improve the lower floor, and level the residence. Almost all of the lower level was included as existing floor area since it was garage space, finished, or had over 7 feet of ceiling height.

The residence had a storage room beneath the front entry stairs, accessible from the exterior. The approved plans identify the area as a "void" and not improved. The applicants are requesting permission to lower the floor in this area to the level of the adjacent space so that it may become additional storage area next to the garage. The applicants ask for a Basement Exception to allow the improvement, which will bring the site further above the maximum floor area ratio. The room would have one window that faces the interior of the site.



**Underfloor Area at 2013 Resale Inspection**

Staff cannot verify the ceiling height of the space, since the residence is now elevated. The 1977 plans for the front porch indicated the area had over 5.5' of ceiling height. The additional floor area is proposed for storage and will not change parking demand at the site. In fact, the additional storage may enable residents to use the parking spaces for automobiles and not storage. Staff would have supported the improvement of the area for storage if it was included with the prior application. The basement improvement will only minimally change the exterior of the structure with the addition of one new window, which is not visible off site. Staff believes that Council may make all of the required findings for the basement exception as detailed below.

### **Fiscal, resource and timeline impacts**

If approved, the project would be subject to one-time fees for a building permit, and associated impact fees, which are based in part on the valuation of the work proposed.

**Alternative actions**

Alternative actions available to the Council include: 1.) continue the public hearing for any further information and review or modifications; or 2.) vote to deny the application.

**Environmental review (if applicable)**

The project is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301 (existing facilities, as an addition to an existing single-family residence 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. Findings and Conditions of Approval
2. Council Minute history
3. Material submitted by applicant

## Attachment 1

### Recommended Town Council Action, Findings and Conditions

Staff recommends that the Town Council approve the project based on staff report, site visits, correspondence, and other information contained in the project file, with the following Findings and subject to the following Conditions of Approval:

1. Area to be improved is an existing area created prior to September 12, 2011, in an existing residence built prior to September 12, 2011. *The underfloor area was created with construction of a 1977 front porch addition.*
2. Basement are to be improved has a ceiling height 5.5 feet or greater. *The applicants certify that the existing storage area proposed for improvement had at least 5.5 foot ceiling height.*
3. For attic improvements only: the improvements proposed do not change the exterior appearance of the structure by adding dormers, raising the roof ridge, addition of windows, or any other exterior modifications. *Project does not include improvement of an attic*
4. For basements:
  - a. If the structure is in a Special Flood Hazard Area (SFHA) identified on the town Flood Insurance Rate Map and/or in an area that is known for flooding, the finished floor level of the improvements must be above the base flood elevation. *Not in SFHA*
  - b. Modifications proposed to the building exterior cannot materially increase the visible mass of the building and modifications, such as new windows, must be compatible with the design of the existing improvements and shall not create privacy issues. The Council may limit the size of light wells to the minimum size necessary to satisfy California Building Code requirements for light, ventilation and emergency egress. *Proposed new window is compatible with design and does not create privacy issues since it faces the interior of the site and the area will only be used for storage.*
  - c. Any modifications to site drainage must be designed by a licensed engineer and shall result in no net increase to the rate or volume of peak runoff from the site compared to pre-project *The existing project is subject to the town stormwater management ordinance, which precludes increasing the rate or*

conditions. Any new mechanical pumps or equipment shall not create noise that is audible off site.

*volume of peak runoff from the site compared to pre-project conditions.*

- 5. The fire chief must confirm that there is adequate water supply for firefighting purposes for the site, or that the project includes measures to provide adequate water supply for firefighting purposes.

*Sprinklers will be required to be extended to the new storage space in association with the substantial remodel.*

- 6. The site has adequate parking. For purposes of this section, adequate parking shall mean that the site complies with at least the minimum number of parking spaces required for the zoning district (covered or not covered). If the site does not comply with the covered parking requirement, the Town Council may require covered parking to be provided. The Town Council may consider the size of the residence, number of bedrooms, and the size and use of the proposed attic and/or basement area and may require additional parking up to the following:

*The site complies with the minimum parking requirements for the zoning district (3 spaces, with 1 covered). The floor area (excluding the garage) is 3,407 square feet. Four off street parking spaces will be available upon completion of the project.*

<i>Total site floor area (excluding covered parking)</i>	<i>Required off street parking</i>
1,300 square feet to 3,300 square feet	3 spaces
Over 3,300 square feet	4 spaces

- 7. The project complies with the most recent California Residential Code adopted by the Town.

*A building permit is required and conditions of approval require the project to meet all code requirements for the intended use of the areas.*

- 8. Excavation, grading or cutting shall not exceed 35 cubic yards. If the project involves excavation, grading or cutting for a basement space, new floor area shall not exceed 20% of the existing floor area.

*The area has been previously excavated for house lifting, cribbing and grade beam forms. 1 cubic yard of cut is proposed. New floor area proposed is 5% of the existing floor area.*

- 9. 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

15301, existing facilities.

**B. Conditions of Approval, 54 Baywood Avenue**

1. The applicant shall submit revised plans to the building department reflecting the additional scope of work. Town staff may approve minor modifications to the project that do not result in significant exterior changes and that substantially comply with the approved plans.
2. The area is approved for storage use only and not habitable space.
3. The building or fire department may require fire sprinklers to be extended to the new area.
4. Drainage shall be designed by a licensed engineer and shall comply with the town stormwater ordinance.
5. The floor area exempted under this approval shall not be traded off for non-basement floor area or living space in the future.
6. Approval of the additional work shall not extend the time for the existing building project under the Town of Ross Construction Completion Ordinance.
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 prior to the issuance of any building permits.
8. All applicants and/or owners shall defend, indemnify, and hold the town harmless along with the Town Council and town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding (“action”) against the town, the Town Council, 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 alleging any other liability or damages based upon, caused by, or related to the approval of the project. The town shall promptly notify the applicants and/or owners of any action. The town, in its sole discretion, may tender the defense of the action to the applicants and/or owners or the town may defend the action with its attorneys with all attorney fees and litigation costs incurred by the town in either case paid for by the applicant and/or owners.

MINUTES OF THE REGULAR MONTHLY MEETING OF THE TOWN COUNCIL  
OF THE TOWN OF ROSS, HELD ON JULY 10, 1952.

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The meeting was called to order at 8:10 P.M. by Mayor Painter.

Present : Councilmen Dewees, Jacks and Painter. Councilman Denicke came in a few minutes after the opening of the meeting.

Absent : Councilman Davidson.

On motion duly made and seconded the reading of the minutes of the regular meeting of June 12, 1952 and of the ~~minutes~~ adjourned meeting of June 19, 1952 was dispensed with.

Mayor Painter asked if there were anyone present who desired to address the Council. In response the following were heard:

\* Jack W. Dufton, requesting relief from provisions of the Code as to side yard areas for the erection of a car port and addition to an existing residence. On motion of Councilman Jacks, seconded by Councilman Denicke, the Council found the existence of facts sufficient to grant the request and so ordered by unanimous vote of the Councilmen present.

M. Kelso, requesting relief from provisions of the Code as to side yard areas for the addition to an existing house and the erection of a car port. On motion of Councilman Denicke, seconded by Councilman Jacks, the Council found the existence of facts sufficient to grant the request as it pertains to the addition to the house and so ordered by unanimous vote of the Councilmen present. That portion of the request applying to the car port was held over to future meeting, as requiring further information to be submitted before a proper determination could be made.

Mrs. Baruh inquired as to the status of her petition for traffic signals at the intersection of Lagunitas Ave and the main highway. Councilman Denicke read from a report by the Calif A.A.A. The net result was their recommendation that the signals be not placed at the present time. It was agreed that the Town secure from them a proposed layout of streets and signal locations, for study, looking towards the time when such equipment might be placed.

Bids for work to be done were opened as follows:

Project 15, Street work on Lagunitas Av.

One bid was received from Brown-Ely Co in the amount of \$3971. Letters were received from J.I. Malarin and Grant Lohman and read to the Council expressing their objections to the project and offering suggestions. The letters were ordered filed as part of the minutes of the meeting. The bid was taken under advisement to an adjourned meeting date of July 24, 1952 to determine whether the State Division of Highways would consent to the use of Special Gas Tax monies in completing the work at this figure, which was over the estimated costs, and if not what final action the Council wished to take on the project.

MINUTES OF THE REGULAR MEETING OF THE TOWN OF ROSS COUNCIL  
HELD ON AUGUST 14, 1958

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The meeting was called to order by Mayor Kanzee at 8:08 PM.

Present: Councilmen - Kanzee, McNab, Scott, Witter

Absent : Councilman - Selfridge

The following minutes were approved as mailed to the Councilmen and the reading thereof waived:

- a) Regular meeting of July 10, 1958.
- b) Board of Equalization meeting of July 10, 1958.
- c) Adjourned regular Board of Equalization meeting of July 31, 1958.

The following Variance Applications were heard:

Martin S. Chase, 4 Woodside Way - addition to non-conforming dwelling. Addition (at rear) will not exaggerate existing variance.

Mr. Chase presented the approving signatures of the neighboring property owners except Eric Moeller (to the rear) who has been out of town for the summer. It was pointed out that a large hedge would screen the addition from Mr. Moeller's view.

On motion of Mr. Scott, seconded by Mayor Kanzee and by unanimous vote of the Council, Variance Application No. 102 was granted.

Fred S. Sherry, Jr., 8 Baywood Avenue - addition to existing dwelling extending to within 10' of westerly sideline of property.

Mr. Sherry presented the approving signatures of all the adjoining property owners and pointed out that the addition could not be made without creating a variance.

On motion of Mr. McNab, seconded by Mr. Scott and by unanimous vote of the Council, Variance Application No. 103 was granted.

\* W. H. Dufton, 54 Wellington Avenue - addition of porch on east side of house which will extend to 15½' of easterly sideline of property. Present dwelling is non-conforming as to front yard area, but addition does not create a variance.

Mr. Dufton presented the signatures of the affected neighbors, who approved the addition, with the exception of M. E. Harriman, to the rear. However, Mr. Harriman did not register a protest.

On motion of Mr. McNab, seconded by Mr. Witter and by unanimous vote of the Council, Variance Application No. 104 was granted.

H. Vandell, Sir Francis Drake Blvd. said that San Anselmo had improved the old right-of-way into a parking area. He suggested the Town place picket posts so that cars could not drive out onto Sir Francis Drake.

He was advised that the Street department would look into the matter.

Resolution No. 636, "Approving Memorandum of Agreement for Expenditure of Gas Tax Monies for 1958-9" was, on motion of Mr. Scott, seconded by Mr. Kanzee and by unanimous vote of the Council, adopted. This authorized an additional payment by the State of \$357.43 for culvert work done under Proj. 24.

Mr. Oglesby said he would break down his bill for work done under Proj. 24 to show amounts owing by State and Town as separate items.

Mr. Jones moved that the matter be put over until the April 14th meeting, seconded by Mr. Chase and unanimously passed.

15. Variances.

1. Variance No. 473 Louis O. Gehm, Morrison Road (72-061-06) Acre Zone. Request to allow construction of therapeutic pool and deck.

Lot Area	33,000 sq. ft.
Present lot coverage	10%
Proposed " "	17%

Landscape Architect Henry Cole explained that a variance is needed on setbacks and if granted, construction will be under the direction of structural engineer Engle. The pool will hold approximately 25,000 gallons of water at a weight of 8 lbs. per gallon. Building Inspector Lunding suggested the following requirements:

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1. All of the special requirements of the Uniform Bldg. code of Sec. 2905 (a) through (f), including the effect of seismic forces, be met.
2. A special inspector, at owner's expense, be retained to report and certify all special and structural work has been done in compliance with all plans, specifications and special requirements of the soils and structural engineers, as outlined in Sec. 305 of the Uniform Bldg. Code.

Mr. Jones moved approval of the variance request, subject to Mr. Lunding's suggestions. Mr. Maginis seconded the motion, which was unanimously passed.

2- Brad and Elizabeth Nicholson, 29 Allen Avenue (73-261-29) 10,000 sq. ft. zone. Request to allow addition of family room 3' from east sideline. Non-conforming house with deck 1' from west sideline, rear 34' from property line.

Lot Area	11,000 sq. ft.
Present lot coverage	22%
Proposed " "	24.5%

Mr. Chase moved that this variance request be continued to the April 14th meeting to allow the applicants to stake the proposed addition. Mr. Maginis seconded the motion, which was unanimously passed.

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3- Variance No. 474 Paul F. Schmitt, 54 Wellington (72-121-28) 10,000 sq. ft. zone. Request to allow replacement of existing enclosed porch with bedroom and sunroom and restoration of front porch.

Lot Area	10,382 sq. ft.
Present lot coverage	23.38%
Proposed " "	23.7%

Mr. Schmitt explained that the coverage on the ground

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is exactly the same. The staircase will be eliminated and the porch to be extended across the front will be restoring it as it used to be. Stating that the construction will cure the inutility of the structure, Mr. Jones moved approval of the variance request, seconded by Mr. Chase and unanimously passed.

- 4- Variance No. 475 Arthur C. and Aura R. Vollert,  
1 Olive Avenue (73-171-10) 10,000 sq. ft. zone.  
Request to allow 9'6" x 7' addition to non-conforming house. Addition will extend 12' above ground. Mr. Vollert submitted an amended plan, showing a roof overhang of 1' instead of the 4' shown on the original plan.  
Mr. Jones moved granting of the variance as amended, said amendment dated March 7, 1977 and filed with the Town Bldg. Inspector, showing the easterly line of the house to be a projection of the north-south line of the wall and the eave, gutter and rafter projections not to exceed those which currently exist. Mr. Maginis seconded the motion, which was unanimously passed.

- 5- Douglas May, 152 Sir Francis Drake Blvd. (73-273-25)  
10,000 sq. ft. zone.  
Request to convert illegal duplex into single family home by addition of front, side and rear decks and enclosure of two existing stairways.  
Lot Area 8,640 sq. ft.  
Present lot coverage 24%  
Proposed " " 26%

Following discussion, Mr. Chase moved that the request be continued to the April 14th meeting to allow applicant to stake the front so that the proposed addition is completely clear to the Council and to obtain written approval from the Marin County Flood Control engineer, who has requested the following conditions be placed on the variance:

1. Rear deck design to allow the channel to be maintained open and free from obstructions to flow.
2. No support for rear deck allowed within 4' of the centerline of the channel.
3. Final design of rear deck subject to review and approval of the Flood Control District.

Mr. Maginis seconded the motion, which was unanimously passed.

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- 4. No. 479 Donald MacPherson, prospective buyer, Paul F. Schmidt, owner, 54 Wellington (72-131-28) 10,000 sq. ft. zone. Request to allow removal of existing porches and construction of master bedroom and bath in attic area, raising height of house from 23' to 30', eliminating side yard non-conformity.

Lot Area	18,382 sq. ft.
Present lot coverage	23.38%
Proposed " "	23.07%

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Mr. MacPherson explained that his plans will add 60 square feet to the existing house, which is 40 square feet less than the variance granted at the March meeting to Mr. Schmidt. This variance will replace the former one. Mr. Jones moved granting the variance, with the condition that Variance No. 475 granted March 10th, 1977 be cancelled. Mrs. Osterloh seconded the motion, which was unanimously passed.

- 5. No. 480 James J. McBride, 43 Willow Avenue (73-261-27) 7,500 sq. ft. zone. Request to allow new roofline and addition of partial second story above existing north side of house, extension of existing back porch and addition of rear deck. Extension of existing laundry porch extends 1' into side setback.

Lot Area	11,400 sq. ft.
Present lot coverage	14.7%
Proposed " "	21.9%

Mr. McBride explained that the house, which has been owned by his family for about 30 years, needs refurbishing and remodeling. It presently contains only one bedroom and bath. He intends to make it his home. Stating that the additions will cure various items of functional depreciation, Mr. Jones moved approval, seconded by Mrs. Osterloh and unanimously passed.

- 6. Pamela and Merritt Sher, 13 Norwood (73-151-14) 20,000 sq. ft. zone. Request to remodel existing unused garage on southwest corner of property into room and bath for housekeeper and for storage area. 2200 sq. ft. of lot coverage will remain the same.

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Lot Area	17,100 sq. ft.
Lot coverage	12%

Mrs. Sher presented plans and explained that

asked that Mr. Broad clarify Item No. 3 of the findings and the motion passed unanimously.  
 Councilmember Reid moved introduction of the ordinance with the changes. Seconded by Councilmember Goodman  
 Town Attorney Roth counseled that if there are further changes at the next meeting, then the matter has to be continued to the following meeting.  
 Councilmember Reid said that at the last meeting the Council requested that RPOA inform the residents of this ordinance through their newsletters.  
 Mayor Barry called for a vote and the motion passed unanimously.

AT 9:12 P.M., MAYOR BARRY CALLED FOR A RECESS AND THE MEETING RECONVENED AT 9:20 P.M. WITH EVERYONE IN ATTENDANCE

18. Wilmot and Roberta Groth, 25 Sir Francis Drake Boulevard, AP No. 73-242-12; R-1:B-10 (Single Family Residence, 10,000 square foot minimum); and The Town of Ross, AP No. 73-242-16, C-D (Civic District). Request is to allow: Lot line adjustment to transfer an approximately 7 foot by 92 foot strip of land from the Town of Ross to the rear of the Groth parcel. This lot line adjustment is requested to allow construction of a new retaining wall along Corte Madera Creek for the Groth parcel to replace an existing damaged retaining wall. The lot line adjustment will result in the replacement retaining wall being located on the Groth parcel.  
 Mr. Elias explained that the Council approved Mr. Groth's neighbor's, Mr. Herron, lot line adjustment and now Mr. Groth was requesting eight feet of Town property so that his wall would line up with Mr. Herron's wall in an effort to repair the damage done to his property. Mr. Elias clarified that Mr. Groth was requesting eight feet and not six feet as was shown on the plans. He stated that the wall will then be on Mr. Groth's property and he will be responsible for it.  
 Mrs. Garril Page of Shady Lane asked if when Mr. Herron was granted a lot line, was it because his property line needed to line up with upstream property. She wondered whether the next upstream property would be requiring the same so that the Town would gradually end up with a six-foot creek.  
 Mayor Barry responded that the engineers had reviewed the area and it was determined that this was the most feasible.  
 Mr. Elias explained that there is only one property left before the flood control easement and that wall is mostly on the owner's property.  
 Mr. Dave Herron said that his lot line had nothing to do with people upstream; it had to do with repairing his wall that was destroyed.  
 Mrs. Holmes asked if it would be a concrete or wooden wall. Mayor Barry responded that it will be a gabion wall and he gave a brief description.  
 After further discussion, Councilmember Scott moved approval. Town Attorney Roth stated that a Hold Harmless Agreement had been submitted to the Town. This was seconded by Councilmember Reid and passed unanimously.
19. Design Review. #13 Jo  
 Ellen Roseman, 54 Wellington Avenue, AP 72-121-28, R-1:B-10 (Single Family Residence, 10,000 square foot minimum). Request is to allow: Design review for the construction of an extension to an existing approximately five (5) foot, high fence along Loma Linda Avenue and addition of a gate. A total of twenty-seven (27) feet of fence plus a gate will be added along Loma Linda Avenue. Sixteen feet of the proposed fence addition was previously existing in the same location. Landscaping will be provided in front of the fence.  
 Ms. Roseman stated that her landscape architect was present to answer any questions.  
 Councilmember Scott said he was concerned about walls with fences above them going up both sides of a street. However,

he understood the problem in that the applicant was proposing to replace a fence. He asked that the fence be moved back as far as possible from the road and that it be stepped down as it was constructed up Loma Linda.

Mrs. Roseman said she had discussed this with members of the Council and agreed to this.

Mr. Elias said that in the past, he has allowed an applicant to replace a fence in the same location but not in the right-of-way. He did allow landscaping on the Town property. The existing fence is not on Town property but the new 11 ft. would be in the right-of-way. He asked the Council to determine whether this should be approved.

Councilmember Scott moved approval with the following conditions:

1. Approval of replacement of the two eight-foot sections;
2. Approval of the new eight-foot section with the three-foot gate;
3. The third section going up Loma Linda be stepped down to break the line and be allowed in the right-of-way;
4. That the applicant submit a drawing for Council review and approval;
5. That jasmine be planted to trail over the fence;
6. That the Council reserves the right to request further landscaping;
7. That the drainage improvements within the right-of-way be completed subject to staff approval.

This was seconded by Councilmember Reid and passed with four affirmative votes.

20. VARIANCES.

Daniel and Susan Ohlson, 63 Winship Avenue, AP 72-162-01, R-1:B-10 (Single Family Residence, 10,000 sq. ft. minimum) Request is to allow: 187 square feet kitchen addition to an existing residence within the rear yard setback (40 feet required, 7.5 feet proposed.) An existing deck and shed/trellis will be removed.

Lot Area	12,090 sq. ft.
Present Lot Coverage	19.3%
Proposed Lot Coverage	18.9% (20% permitted)
Present Floor Area Ratio	34.0%
Proposed Floor Area Ratio	33.3% (20% permitted)

The existing house is nonconforming in front, side and rear yard setbacks.

VARIANCE NO. 1070. Councilmember Scott commented that the FAR is high but the Lot Coverage and FAR will be reduced with this proposal; he felt it to be a reasonable request.

Councilmember Goodman moved approval with the condition that the Council reserves the right to request additional landscaping, if needed. This was seconded by Councilmember Scott and passed unananimously.

21. Use Permit for construction in a hazard zone, design review, and permit for removal of trees on undeveloped property.

Karen and Richard Grey, 8 Upper Road West, AP 73-062-10, R-1:B-5A (Single Family Residence, 5 acre minimum). Request is to allow:

- a. Use permit for construction in hazard zones 3 and 4, design review to allow the construction of a 4,950 square foot residence plus 236 square feet of floor area for ceiling heights in excess of 10 feet. A 900 square foot garage/storage area and 680 square feet of deck are proposed. Total development is 6,766 square feet of floor area.

**18. 54 Wellington Ave, Variance and Design Review No. 1946**

Michael and Justyna Lloyd, 54 Wellington Avenue, A.P. No. 72-121-28, R-1:B-10 (Single Family Residence, 10,000 sq. ft. min. lot size), Medium Low Density (3-6 units per acre). Review of plans that would require Town Council approval of design review, demolition permit and variances. The project includes: 1.) remodel of the residence; 2.) removal of deck from the east side of the residence and construction of a two story 252 square foot addition partially within the front yard setback (25 feet required, 22 feet proposed); 3.) 630 square foot deck on the south (rear) side of the residence, approximately 4 feet above grade; 4.) 108 square foot master bedroom addition in the area of a roof deck, partially within the west side yard setback (15 feet required, 14.5 feet proposed); 5.) raising the residence approximately 16" to level the house and add a 4" concrete slab; 6.) replacing the exterior siding with new cedar shingles; and 7.) replacing windows with clad, wood frame windows. The residence is nonconforming in number of stories and setbacks. A variance is required to structurally alter a nonconforming residence without bringing it into conformance with all zoning regulations.

<b>Lot Area</b>	<b>19,516 square feet</b>
<b>Existing Floor Area Ratio</b>	<b>3,516 sq. ft. 18.7%</b>
<b>Proposed Floor Area Ratio</b>	<b>3,846 sq. ft. 19.7% (20% permitted)</b>
<b>Existing Lot Coverage</b>	<b>1,841 sq. ft. 9.4%</b>
<b>Proposed Lot Coverage</b>	<b>2,379 sq. ft. 12.2% (20% permitted)</b>
<b>Existing Impervious Surfaces</b>	<b>1,841 sq. ft. 9.4%</b>
<b>Proposed Impervious Surfaces</b>	<b>1,810 sq. ft. 9.3%</b>

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

Michael Lloyd, applicant, discussed the laurels and the Lloyd's are happy to add laurels or whatever the neighbors desired. Privacy is a two-way street. In regard to the deck in back, they decided to lower the deck after the Advisory Design Review (ADR) meeting, but instead of 3 ft. they desired 4 ft. He provided several drawings showing the revised deck for the Council's consideration.

Mayor Kuhl opened the public hearing on this item.

58 Wellington neighbor appreciated a cooperative venture. She asked for information on the square-footage of the deck. Senior Planner Semonian responded that the deck is 31.5 x 13.5, so around 450 sq. ft. Staff's recommendation is to approve the proposed deck, but permit staff to approve the alternative design presented if they are required to cut it back from the creek.

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 Kuhl expressed concern for the channel and hoped there is a way to resolve the problem. Jeff Kroot, architect, indicated that they had looked into putting the watercourse in a culvert or covering it. They met with a representative of the US Army Corps of Engineers and

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others to discuss the proposal and were told that the voters of the State have voted to not let them cover the channel. He was amazed and believed the voters would want the applicants to cover the concrete channel, where water is only present seasonally, and to protect their two small children. The Lloyd's have small children and safety is a concern. It is a dangerous situation and they are not allowed to do anything about it. Mayor Pro Tempore Brekhus supported the channel being covered because it does represent a hazard. She recommended directing the Town Manager to write a letter to the appropriate individuals indicating the Town Council supports covering the channel. Town Manager Braulik agreed to draft a letter.

Mayor Kuhl asked for a motion.

**Mayor Pro Tempore Brekhus moved and Council Member Small seconded, to approve 54 Wellington Ave, Variance and Design Review No. 1946 subject to the findings and conditions outlined in the staff report, and allow staff to approve an alternate rear deck design, if needed; and allow staff to approve a landscape plan in regard to 58 Wellington. Motion carried unanimously.**

**54 Wellington Avenue Conditions:**

The following conditions of approval shall be reproduced on the cover sheet of the plans submitted for a building permit:

1. Except as otherwise provided in these conditions, the project shall substantially comply with the plans approved by the Town Council on March 13, 2014. Plans submitted for the building permit shall reflect any modifications required by the Town Council and these conditions.
2. Impervious surfaces shall be limited to existing conditions.
3. The garage doors shall be automatic.
4. The deck shall be limited to the area north of the creek bank unless the owners can demonstrate the agencies will not regulate the deck prior to its construction. If the deck must be reduced in size, the applicants may elevate the deck as proposed in the alternate plan presented to the Town Council on March 13, 2014.
5. The town planner may require written evidence, prepared by a licensed land surveyor, confirming the height of the structure complies with approved plans prior to project final.
6. All exterior lighting that may be visible from adjacent sites shall be shielded (no bare bulb light fixtures). Exterior lighting of landscaping by any means shall not be permitted if it creates glare, hazard or annoyance for adjacent property owners. Lighting expressly designed to light exterior walls or fences that is visible from adjacent properties or public right-of-ways is prohibited. No up lighting is permitted. Interior and exterior lighting fixtures shall be selected to enable maximum "cut-off" appropriate for the light source so as to strictly control the direction and pattern of light and eliminate spill light to neighboring properties or a glowing night time character.
7. Prior to any demolition or issuance of a building permit for the new structure, which was constructed prior to 1985, an asbestos and lead-based paint survey shall be provided to the Town building department. If asbestos-containing materials are determined to be present, the materials should be abated by a certified asbestos abatement contractor in accordance with the regulations and notification

- requirements of the Bay Area Air Quality Management District. If lead-based paint is identified, then federal and state construction worker health and safety regulations should be followed during renovation or demolition activities. If loose or peeling lead-based paint is identified, it should be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations.
8. A Tree Protection Plan that complies with Ross Municipal Code Section 12.24.100 is required for all protected trees on or near the project site. The Tree Protection Plan shall be submitted with the building permit application. The project arborist shall review the final construction-level drawings and landscape plan, including grading, drainage and utility plans (arborist should note the dates of the plans reviewed). All tree protection conditions recommended by the project arborist shall be included on the building permit plans to ensure compliance with the arborist recommendations. The applicant shall submit a deposit of \$1,000 to cover the cost of town arborist review of the Tree Protection Plan and periodic site inspections. The plan should include a schedule of when the consulting arborist should inspect the site or be present for activities such as trenching in the tree protection area. Tree protection fencing shall be installed prior to permit issuance as recommended by the project arborist. The project arborist shall inspect the site prior to issuance of a building permit to determine if tree protection fencing has been properly installed and shall submit written confirmation to the town planner that the tree protection is in place prior to permit issuance.
  9. A detailed landscape and irrigation plan shall be submitted with the building permit plans for review and approval of the Town prior to installation and prior to building permit final. The plan shall focus on screening views between 54 and 58 Wellington Avenue. The plan must be approved by the Marin Municipal Water District, if not exempt from their requirements, prior to submitting to the Town. All screening shrubs shall be installed prior to project final and shall be at least 24-inch box size. A final inspection by MMWD is required prior to project final. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
  10. No changes from the approved plans, before or after project final, including changes to the materials and material colors, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town for review and approval prior to any change. The applicant is advised that changes made to the design during construction may delay the completion of the project and will not extend the permitted construction period.
  11. A condition of water service by Marin Municipal Water District (MMWD) requires the applicants to comply with all indoor and outdoor requirements of the District Code Title 13 – Water Conservation for water service prior to project final. Indoor plumbing fixtures must meet specific efficiency requirements. Landscape plans shall be submitted, and reviewed to confirm compliance. The Code requires a landscape plan, an irrigation plan, and a grading plan. Any questions regarding District Code Title 13 - Water Conservation should be directed to the Water Conservation Department at (415) 945-1497. Should backflow protection be required, said protection shall be installed as a condition of water service. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559. Questions regarding this condition of approval

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should be directed towards Joseph Eischens, Engineering Technician, at (415) 945-1531. A letter or email from MMWD confirming compliance shall be submitted to the building department prior to project final.

12. Applicants shall comply with the requirements of the Ross Valley Sanitary District No. 1 (RVSD) prior to project final. It is the applicants' responsibility to obtain any required permits from Ross Valley Sanitary District and meet all District requirements prior to project final. A letter or email confirming compliance with RVSD shall be submitted to the building department prior to project final.

13. The project shall comply with the Fire Code and comments of the Ross Valley Fire Department (RVFD) dated February 26, 2014.

14. The project shall also comply with the following conditions of the Town of Ross Building Department and Public Works Department, unless the town manager modifies the condition:

bb. Applicants may be required to return for additional Town Council review, which requires payment of additional application fees, for any roof projections that are not identified on the plans submitted for Town Council review. Where a roof area is visible from off site, roof projections shall be located to minimize their appearance. Exposed galvanized material is discouraged. All vents and flue pipes shall utilize a finish to blend into adjacent surfaces. If possible, vents may be concealed from view in forms compatible with the structure. Vents for cooking appliances should be located or directed to avoid noise and odor impacts to adjacent sites and shall be located out of required setback areas.

cc. The plans submitted for the building permit shall detail the gutter and downspout design and location for review and approval by the Town. Applicants may be required to return for additional Town Council review, which requires payment of additional application fees, for any gutters or downspouts that are not identified on the plans submitted for Town Council review. A specification sheet shall be provided and the proposed color and finish material shall be specified. Downspouts should be located to minimize their appearance from off site locations. Gutters and downspouts should have a finish to blend into adjacent surfaces or underlying trim. Exposed galvanized material is not permitted.

dd. 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. Applicant shall provide the names of the owner, architects, engineers and any other people providing project services within the Town, including names, addresses, e-mail, 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.

ee. The building department may require the applicant to submit a deposit prior to building permit issuance to cover the anticipated cost for any Town consultants, such as the town hydrologist, review of the project and overhead. Any additional costs incurred by the Town, including costs to inspect or review the project, shall be paid as incurred and prior to project final.

ff. The drainage design shall comply with the Town's stormwater ordinance (Ross Municipal Code Chapter 15.54). The plan shall be designed, at a minimum, to produce no net increase in peak runoff from the site compared to pre-project conditions (no net increase standard).

gg. An encroachment permit is required from the Department of Public Works prior to any work within a public right-of-way.

hh. A revocable encroachment permit is required for the fence located in the Loma Linda right of way prior to project final.

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ii. The plans submitted for a building permit shall include a detailed construction and traffic management plan for review and approval of the building official, in consultation with the town planner and police chief. The plan shall include as a minimum: tree protection, management of worker vehicle parking, location of portable toilets, areas for material storage, traffic control, method of hauling and haul routes, size of vehicles, and washout areas. The construction management plan shall be submitted in time to be incorporated into the job set of plans. The construction management plan shall become a binding document, and failure to adhere to the plan may result in stoppage of the project.

jj. The applicant shall submit a schedule that outlines the scheduling of the site development to the building official. The construction schedule shall detail how the project will be completed within the construction completion date provided for in the construction completion chapter of the Ross Municipal Code (Chapter 15.50).

kk. A copy of the building permit shall be posted at the site and emergency contact information shall be up to date at all times.

ll. The Building Official and other Town staff shall have the right to enter the property at all times during construction to review or inspect construction, progress, compliance with the approved plans and applicable codes.

mm. Inspections shall not be provided unless the Town-approved building permit plans are available on site.

nn. Working Hours are limited to Monday to Friday 8:00 a.m. to 5:00 p.m. Construction is not permitted at any time on Saturday and Sunday or the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. If the holiday falls on a Sunday, the following Monday shall be considered the holiday. If the holiday falls on a Saturday, the Friday immediately preceding shall be considered the holiday. Exceptions: 1.) Work done solely in the interior of a building or structure which does not create any noise which is audible from the exterior; or 2.) Work actually physically performed solely by the owner of the property, on Saturday between the hours of 10:00 a.m. and 4:00 p.m. and not at any time on Sundays or the holidays listed above. (RMC Sec. 9.20.035 and 9.20.060).

oo. Failure to comply in any respect with the conditions or approved plans constitutes grounds for Town staff to immediately stop work related to the noncompliance until the matter is resolved. (Ross Municipal Code Section 18.39.100). The violations may be subject to additional penalties as provided in the Ross Municipal Code and State law. If a stop work order is issued, the Town may retain an independent site monitor at the expense of the property owner prior to allowing any further grading and/or construction activities at the site.

pp. Materials shall not be stored in the public right-of-way. 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. All loads carried to and from the site shall be securely covered, and the public right-of-way must be kept free of dirt and debris at all times. Dust control using reclaimed water shall be required as necessary on the site or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at site. Cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.

qq. Applicants shall comply with all requirements of all utilities including, the Marin Municipal Water District, Ross Valley Sanitary District, and PG&E prior to project final. Letters confirming compliance shall be submitted to the building department prior to project final.

rr. The applicant shall work with the Public Works Department to repair any road damage caused by the construction. Applicant is advised that, absent clear video evidence to the contrary, road damage must be repaired to the satisfaction of the Town prior to project final. Damage assessment will be at the sole discretion of the Town, and neighborhood input will be considered in making that assessment.

ss. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance (copies available at [www.townofross.org](http://www.townofross.org)). 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 the Town of Ross 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.

tt. The applicant shall submit an erosion control plan with the building permit application for review by the building official/director of public works. The plan shall include a signed statement by the soils engineer that erosion control is in accordance with Marin County Stormwater Pollution Prevention Program (MCSTOPPP) standards. The erosion control plan shall demonstrate protection of disturbed soil from rain and surface runoff and demonstrate sediments controls as a "back-up" system. (Temporary seeding and mulching or straw matting are effective controls.).

uu. All construction materials, debris and equipment shall be stored on site. If that is not physically possible, an encroachment permit shall be obtained from the Department of Public Works prior to placing any construction materials, debris, debris boxes or unlicensed equipment in the right-of-way.

12. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding ("action") 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 alleging any other liability or damages based upon, caused by, or related to the approval of the project. The Town shall promptly notify the applicants and/or owners of any action. The Town, in its sole discretion, may tender the defense of the action to the applicants and/or owners or the Town may defend the action with its attorneys with all attorneys fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.

## **End of Public Hearings on Planning Applications – Part II.**

### **19. No Action Items:**

#### **a. Council correspondence received**

- Letter received by Mayor against illegal guns
- Letter from Marin County Civil Grand Jury regarding banning single use plastic bags
- Telephone call inquiring about timeframe for applying for Town Council seat

#### **b. Future Council items**

- Commission on Aging update



# Town of Ross

## Planning Department

Post Office Box 320, Ross, CA 94957

Phone (415) 453-1453, Ext. 121 Fax (415) 453-1950

Web [www.townofross.org](http://www.townofross.org)

Email [esemonian@townofross.org](mailto:esemonian@townofross.org)

Staff Use Only
Received By: _____
Date: _____
Fees Paid: _____
Date: _____

### BASEMENT/ATTIC EXCEPTION APPLICATION

\$600 Application Fee

Parcel Address and Assessor's Parcel No. 072-121-28

Owner(s) of Parcel Michael + Justyne Lloyd

Mailing Address (PO Box in Ross) P.O. Box 787

City ROSS State CA ZIP 94957

Day Phone (415) 693-5310 Evening Phone (415) 218-3100

Email mllloyd550@yahoo.com

Architect (Or applicant if not owner) Jeff Knecht Architect & Assoc.

Mailing Address P.O. Box 246

City San Anselmo State CA ZIP 94974

Phone 415 456-5531

Email jknecht2@comcast.net

#### Existing and Proposed Conditions (For definitions please refer to attached fact sheet.)

Gross Lot Size 19,516.41 sq. ft. Lot Area 19,516.41 sq. ft.

Existing Lot Coverage 2377 sq. ft. Existing Floor Area 3846 sq. ft.

Existing Lot Coverage 12.18 % Existing Floor Area Ratio 19.7 %

Coverage Removed 0 sq. ft. Floor Area Removed 0 sq. ft.

Coverage Added 0 sq. ft. Floor Area Added 200 sq. ft.

Net Change- Coverage 0 sq. ft. Net Change- Floor Area 200 sq. ft.

Proposed Lot Coverage SAME sq. ft. Proposed Floor Area 4046 sq. ft.

Proposed Lot Coverage SAME % Proposed Floor Area Ratio 20.73 %

Existing Impervious Areas No Change sq. ft. Proposed Impervious Areas No Change sq. ft.

Existing Impervious Areas No Change % Proposed Impervious Areas No Change %

Proposed New Retaining Wall Construction — ft. (length) — ft. (max height)

Proposed Cut 1.0 cubic yards Proposed Fill — cubic yards

Area previously excavated for house lifting cribbing and grade beam forms.

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**Written Project Description – may be attached.**

A complete description of the proposed project is required. The description may be reviewed by those who have not had the benefit of meeting with the applicant, therefore, be thorough in the description.

Change to approved plans to lower the floor in a storage area adjacent to Garage #2 for improved storage. Plans (and existing pre-remodel) ceiling height is approximately 5 1/2', and we propose to lower the floor level to be equal with the floor level of the adjacent garage. This will result in a ceiling height for this storage space of approximately 8'.

The storage area is depicted on the approved plans as "Yard Storage". This space will be unimproved. We also propose to relocate the furnace and water heater from Garage #2 to the Yard Storage space.

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### Required Findings for Exception Application

*In order for an exception to be granted, the following mandatory findings must be made:*

- (1) Area to be improved is an existing area created prior to September 12, 2011, in an existing residence built prior to September 12, 2011. *Not Applicable - Amnesty period in effect until September 12, 2013*
- (2) Basement area to be improved has a ceiling height 5.5 feet or greater.  Existing basement area has 5.5 foot ceiling height (provide floor plan with ceiling heights identified, if height varies)  
 Not an attic  
 No change to exterior or  
 If changes proposed, attach material to describe changes and why they will not create view, light or privacy issues for neighbors.
- (3) For attic improvements only: the improvements proposed shall not change the exterior appearance of the structure, for example, by addition of dormers or raising the roof ridge. The Town Council may approve minor changes to the exterior appearance of an attic, such as the addition of windows or skylights, if they will not create view, light or privacy issues for neighbors.  
 Not an attic  
 No change to exterior or  
 If changes proposed, attach material to describe changes and why they will not create view, light or privacy issues for neighbors.
- (4) For basements:
- a. If the structure is in a Special Flood Hazard Area (SFHA) identified on the town Flood Insurance Rate Map and/or in an area that is known for flooding, the finished floor level of the improvements must be above the base flood elevation.  Not in SFHA  
 In SFHA  
 In SFHA  
BFE: \_\_\_\_\_  
Proposed floor elevation: \_\_\_\_\_
- b. Modifications proposed to the building exterior cannot materially increase the visible mass of the building and modifications, such as new windows, must be compatible with the design of the existing improvements and shall not create privacy issues. The Council may limit the size of light wells to the minimum size necessary to satisfy California Building Code requirements for light, ventilation and emergency egress.  Attach description of exterior changes
- c. Any modifications to site drainage must be designed by a licensed engineer and shall result in no net increase to the rate or volume of peak runoff from the site compared to pre-project conditions. Any new mechanical pumps or equipment shall not  No change proposed.  
 Preliminary drainage plan included.  
 Spec's on mechanical equipment included.

create noise that is audible off site.

(5) The fire chief must confirm that there is adequate water supply for firefighting purposes for the site, or that the project includes measures to provide adequate water supply for firefighting purposes.

*staff will confirm*

(6) The site has adequate parking. For purposes of this section, adequate parking shall mean that the site complies with at least the minimum number of parking spaces required for the zoning district (covered or not covered). If the site does not comply with the covered parking requirement, the Town Council may require covered parking to be provided. The Town Council may consider the size of the residence, number of bedrooms, and the size and use of the proposed attic and/or basement area and may require additional parking up to the following:

Complies with minimum parking reqts. – show parking spaces on site plan

No. of bedrooms: 3

No. of covered and uncovered spaces available on site:

2 covered spaces

2 uncovered spaces

<i>Total site floor area (excluding covered parking)</i>	<i>Required off street parking</i>
1,300 square feet to 3,300 square feet	3 spaces
Over 3,300 square feet	4 spaces

(7) The project complies with the most recent California Residential Code adopted by the Town.

Submit details on light, ventilation and egress requirements for any habitable space

(8) Excavation, grading or cutting shall not exceed 35 cubic yards. If the project involves excavation, grading or cutting for a basement space, new floor area shall not exceed 20% of the existing floor area.

Project involves 1 cubic yards of grading.

If grading involved:  
Existing floor area (excluding covered parking) 3846 sq. ft. New floor area is 4046 sq. ft.