



Staff Report

Date: November 6, 2014
To: Mayor Elizabeth Brekhus and Councilmembers
From: Elise Semonian, Senior Planner
Subject: Rees, Pool Setback Variance, 12 Brookwood Lane, File 1978

Recommendation

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

Project Summary

Owner: Nigel and Laura Rees
Design Professional: Catlin Landscape Architecture
Location: 12 Brookwood Lane
A.P. Number: 73-261-13
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% annual chance of flooding area), lower portion of driveway in Zone AE (area of 1% annual chance flood)

Request for rear yard setback variance for new pool and spa, to be located in area of existing lawn (40 foot setback required, approximately 15 feet proposed). Side yard setback and lot coverage variances are requested for 60 sq. ft. pool equipment shed. The driveway is proposed to be replaced with a pervious surface to maintain the existing level of impervious surfaces.

Lot Area	16,675 square feet
Existing Lot Coverage	2,535 sq. ft. 15.2%
Proposed Lot Coverage	2,595 sq. ft. 15.6% (15% permitted)
Existing/Proposed Impervious Surfaces	no change

Background and discussion

The applicants are requesting variances to construct a new pool in their back yard on an existing lawn area, within the required rear yard setback. The pool would be located adjacent to a neighbor's side yard and would comply with the required side yard setback requirement. The site is heavily landscaped and no additional screening would be necessary to screen views of the pool area. The applicant would replace impervious driveway surface with a pervious material so the project would not increase impervious surface at the site.

The Advisory Design Review Group (ADR) did not consider this application. The applicant discussed the project with each neighbor prior to submitting the application. No neighbor has expressed a concern with the application.

Pools and other structures are required to comply with the Town setback requirements. The Town added pools, tennis courts, and other "recreational use structures" to the definition of "structure" in 1984. According to County Tax Assessor Records, approximately 40% of developed parcels in Ross have a swimming pool. Many pools were installed in the setbacks prior to 1984.

The Council will need to determine if findings may be made for the setback variances requested for the pool and other improvements proposed within the required side and rear yard areas. The council may grant variances, exceptions and adjustments to the provisions of the zoning code where practical difficulties, unnecessary hardships and results inconsistent with the general purposes of the zoning code may result from the strict application of the provisions. (RMC §18.48.010)

To approve a variance the Council must find:

1. There are special circumstances or conditions applicable to the land, building or use referred to in the application.
2. The granting of the application is necessary for the preservation and enjoyment of substantial property rights.
3. The granting of the application will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. (RMC §18.48.030)

The applicants' statements in support of the variance are attached. Unlike prior applications where staff has recommended denial of variances for pools, staff believes this site has special circumstances. The project site has an unusual shape due to its location on a bend of Brookwood Lane. The residence is sited far from the front property line, in excess of the required 25-foot front yard setback, which limits the developable area in the rear yard for a pool. The site is surrounded by lots developed with pools. The development on adjacent sites is far from the proposed pool and the project is not anticipated to have any negative impact on

surrounding development. The pool would be adjacent to a side yard setback for the site to the rear, and the pool would comply with the side yard setback requirement. The perimeter of the site is currently screened with tall and thick evergreen planting.

Over the last several years, the Council has considered the specific site circumstances for pool setback variance requests. Council approved setback variances at 51 Shady Lane (site surrounded by 3 roads, historic residence, pool adjacent to neighbor's side yard, complied with side yard setback), 14 Walnut (pool adjacent to neighbor's side yard, 8 foot setback approved), and 1 Southwood (pool adjacent to a neighbor's side yard, complied with side yard setback, objecting neighbor had a pool). The Council has also denied other pool applications when findings could not be found to support the application and neighbors expressed concerns (98 Shady Lane).

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 and continue the project to permit staff to draft findings for denial.

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. Material submitted by applicant
3. Council Minute history

Attachment 1

Recommended Town Council Action, Findings and Conditions

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

Conditions:

1. Except as otherwise provided in these conditions, the project shall be constructed in substantial conformance with the plans dated July 2014, on file with the Planning Department.
2. A building permit is required. The plans submitted for the building permit shall identify how impervious surfaces will be limited to existing conditions prior to project final. Pervious surfaces shall not be converted to impervious surfaces after project final without prior approval of the Town.
3. The applicants shall obtain an encroachment permit from the Department of Public Works for any work within the right of way.
4. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded. No up lighting is approved.
5. The applicants shall comply with all requirements of the Marin Municipal Water District and Ross Valley Sanitary District before project final. Landscaping shall comply with the MMWD water-conserving landscape ordinance. Proof that MMWD has approved the plan or that it is exempt from their review shall be submitted to the planning department prior to project final.
6. 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. Before 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 before project final.
7. 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.
8. 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.
9. No changes from the approved plans, before or after project final, shall be permitted without before Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town Planner for review and approval before any change.
 10. 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.



Town of Ross

Planning Department

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Phone (415) 453-1453, Ext. 121

Fax (415) 453-1950

Web www.townofross.org

Email esemonian@townofross.org

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

VARIANCE/DESIGN REVIEW/DEMOLITION APPLICATION

Parcel Address and Assessor's Parcel No. 12 Brookwood lane

Parcel # 13

Owner(s) of Parcel Nigel and Laura Rees

Mailing Address (PO Box in Ross) P.O. Box 1373

City Ross State CA ZIP 94957

Day Phone (415) 309-0113 (c) Evening Phone (415) 464-0544

Email rees2004@sbcglobal.net

Architect (Or applicant if not owner) _____

Mailing Address _____

City _____ State _____ ZIP _____

Phone _____

Email _____

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

Gross Lot Size _____ sq. ft. Lot Area _____ sq. ft.

Existing Lot Coverage _____ sq. ft. Existing Floor Area _____ sq. ft.

Existing Lot Coverage _____ % Existing Floor Area Ratio _____ %

Coverage Removed _____ sq. ft. Floor Area Removed _____ sq. ft.

Coverage Added _____ sq. ft. Floor Area Added _____ sq. ft.

Net Change- Coverage _____ sq. ft. Net Change- Floor Area _____ sq. ft.

Proposed Lot Coverage _____ sq. ft. Proposed Floor Area _____ sq. ft.

Proposed Lot Coverage _____ % Proposed Floor Area Ratio _____ %

Existing Impervious Areas _____ sq. ft. Proposed Impervious Areas _____ sq. ft.

Existing Impervious Areas _____ % Proposed Impervious Areas _____ %

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

Proposed Cut _____ cubic yards Proposed Fill _____ cubic yards

Written Project Description – *may be attached.*

A complete description of the proposed project, including all requested variances, 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. For design review applications, please provide a summary of how the project relates to the design review criteria in the Town zoning ordinance (RMC §18.41.100).

- . **At the rear yard lawn area, add a new swimming pool: 15 X 35 feet with an integral spa, pool cover, Bluestone coping, and small bluestone sitting area**

- . **145 square foot blue stone coping**

- . **475 square foot bluestone patio: stone slab on wall**

- . **525 square foot pool area**

- . **Total increase in impervious surfaces: +/- 1,145 square feet**

- . **Small pool equipment shed to be added at the east side yard: 6' x 10' foot print**

- . **Proposed off-set to achieve Net Zero Impervious surface gain: Convert the existing Asphalt Driveway at the front yard, to a permeable paver driveway system**

- . **There is only one area to add this pool with minimal impact on the mature landscaping in the rear lawn area**

- . **The rear property has well established evergreen hedges: Carolina Cherry and English Laurels, as well as very mature trees, making it extremely private from all neighboring properties**

Mandatory Findings for Variance Applications

In order for a variance to be granted, the following mandatory findings must be made:

Special Circumstances

That because of special circumstances applicable to the property, including size, shape, topography, location, and surroundings, the strict application of the Zoning Ordinance deprives the property of privileges enjoyed by other properties in the vicinity and under identical zoning classification. **Describe the special circumstances that prevent conformance to pertinent zoning regulations.**

Due to the size restriction of the rear yard, and the footprint of the residence, plus the imposition of the rear and side yard setbacks, there is no alternative arrangement for the location of the swimming pool

Substantial Property Rights

That the variance is necessary for the preservation and enjoyment of substantial property rights. **Describe why the project is needed to enjoy substantial property rights.**

This project is needed primarily for health and physical therapy, as well as enjoyment, as both clients have rehabilitated from hip and back surgeries, and want to use swimming as a primary form of physical therapy.

Adjacent neighbors enjoy existing swimming pools and the clients would like to have the same capability.

Public Welfare

That the granting of a variance will not be detrimental to the public welfare or injurious to other property in the neighborhood in which said property is situated. **Describe why the variance will not be harmful to or incompatible with other nearby properties.**

The variance will not be harmful to, or incompatible with the adjacent properties as a number of these properties already have swimming pools.

Due to extremely mature landscaping, the pool at 12 Brookwood Lane would be heavily shielded from view from any surrounding properties.

The clients have notified the neighbors and sought out their opinions, and received favorable responses.

Special Privilege

That the granting of this variance shall not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.

Describe why the variance would not be a grant of special privilege.

The variance would not be granting special privilege, as the adjacent properties have similar conditions with swimming pools.

1. Receipt of letters indicating availability of sewer and utility service from the appropriate agencies.
2. Proper disposition of any existing or proposed utility easements now crossing or to cross the proposed parcels for service to adjacent parcels.
3. Filing of a Parcel Map or Record of Survey Map delineating all parcels.

Mr. R. Jones seconded the motion, which was unanimously passed.

10. Variances.

a. No. 299. Dorothy S. Mayer and Anne P. Rogers - Squirrel's Nest.

Replacement of two signs at 7&9 Poplar Ave. in the Commercial area (73-272-10) Mrs. Mayer and Mrs. Rogers displayed a handsome sign, 4' wide x 3' in length, designed to hang perpendicular to the building. Mr. R. Jones produced pictures of the commercial area, which showed nearly all signs and awnings to be in violation of the sign ordinance. Mrs. Lewis moved the variance be granted, Mr. R. Jones seconded the motion, which was unanimously passed.

b. No. 300. Dr. and Mrs. David F. Merten, 112 Brookwood Lane (73-261-13) 10,000 sq. ft. zone. Extend 2' and enclose porch area of existing residence; also enlarge small bedroom over porch area. Extension will increase existing non-conforming 9'6" sideline setback to 8'6". Present lot coverage - 15%, proposed lot coverage - 16%. Architect Van Logan presented the plans and Dr. Merten explained he had inherited a fine collection of books within the last year and needs a library to house them. Mr. Martinelli moved the variance be granted, Mrs. Lewis seconded the motion and it was unanimously passed.

- 6-8-67
11. Discussion of proposed Ordinance setting forth regulations governing use of Natalie Coffin Greene Park. Mr. Elliott offered to write to the League of Calif. Cities concerning rules and regulations of private parks and to draft an ordinance, for presentation at the July meeting, prohibiting motorcycles, motorscooters, buses and house trailers in the Park, limiting fires in pits only, limiting the number in organized groups, and stating open hours for the Park.

Mr. Girvin did not feel stone would be appropriate for the contemporary home.

Councilman Brekhus suggested they look at the entrance at Greenbrae on South Eliseo Drive.

Mayor Goodman called for a vote and the motion passed unanimously.

25. VARIANCES.

a. Jan Booth and Mark Herrero, 12 Brookwood Road, AP No. 73-261-13, 10,000 sq. ft. zone.

Request is to allow addition and alternation of existing single family residence and attached garage. Construction of 797 square feet of additional floor area, including an au pair/guest room above attached garage. The existing house has a nonconforming side yard setback of 9 feet (15 required) and a nonconforming height of approximately 32 feet (30 feet required).

The parcel is nonconforming in floor area ratio.

Lot Area	16,657 sq. ft.
Present Lot Coverage	15.2%
Proposed Lot Coverage	17.1%
Present Floor Area	23.7%
Proposed Floor Area	28.4%

(20% allowed)

Mr. Wisenbacker, architect, stated they proposed a two-car garage and the structure would be unchanged except for the garage area.

Councilman Barry said he had no problem with the proposed plans in the rear of the home but was concerned about the front.

Mayor Goodman was concerned about the bulk of the proposed additions and could not find the necessary finding to grant the variance.

After some discussion, Councilman Barry moved that this item be continued so that the applicant could submit alternative plans. Councilman Brekhus seconded the motion stating that the tendency today is to build large homes with very little side area. He also expressed concern over the bulk.

Mayor Goodman called for a vote and the motion passed unanimously.

b. VARIANCE NO. 986. Michael Solomon, One Winding Way, AP 72-111-08, Acre Zone. Request is to allow placement of an above ground 2,000 gallon well storage tank. 7.5 feet high x 8.5 feet wide, within the side yard setback (0 feet proposed, 25 feet required). Also, improvement of a children's play area with walls and structures within the side yard setback (7 feet proposed, 25 feet required).

Lot Area	47,045 sq. ft.
Present Lot Coverage	10.4%
Proposed Lot Coverage	10.4%
Present Floor Area Ratio	14.4%
Proposed Floor Area Ratio	14.4%

(15% allowed)

Architect George Girvin stated that the tank would be buried and the play area would be located behind the existing Redwoods and would not be visible from Laurel Grove.

4-11-91

May 9, 1991

21. VARIANCES.

- a. VARIANCE NO> 988. Jan Booth and Mark Herrero, 12 Brookwood Road, AP 73-261-13, Single Family Residence, 10,000 square foot minimum. Request is to allow addition and alteration of existing single family residence and attached garage. Construction of 535 square feet of additional floor area, including an au pair/guest room above attached garage. The existing house has a nonconforming side yard setback of 9 feet (15 required.) The height is approximately 30 feet (30 feet permitted.)

The parcel is nonconforming in floor area ratio.

Lot Area	16,675 sq. ft.
Present Lot Coverage	15.2%
Proposed Lot Coverage	16.4% (20% allowed)
Present Floor Area Ratio	23.7%
Proposed Floor Area Ratio	26.9% (20% allowed)

This item was continued from the April meeting, allowing the applicant to submit alternative plans. Mr. Herrero stated that he had full neighborhood support for the scaled back plans. The proposed garage is narrower and lower and they had decreased the height of the connector, as well as lowering the FAR and Lot Coverage.

After consideration, Councilman Lill moved approval of the modified plans with the condition that a smoke detector be placed in the guest room. This was seconded by Councilman Reid, adding that the hardship was the inadequate garage size.

Mayor Goodman said that because of the large setback in the front the construction would not have an impact from the street.

After some discussion, Mayor Goodman called for a vote and the motion passed unanimously.

- b. Phil and Joan Gross, 87 Shady Lane, AP 73-091-13, Single Family Residence, 10,000 square foot minimum (R-1:B-10). Request is to allow:

- (1) Addition of a bathroom to an existing 36' X 10' garage with nonconforming setbacks (7 feet 8 inches existing side yard setback, 15 feet required) and (18 feet existing rear yard setback, 40 feet required.)
- (2) Alteration of existing garage exterior through construction of new windows and doors.
- (3) Alteration of existing window and door configuration of residence, including addition of two bay windows totalling 15 square feet.

The existing house is nonconforming in front and side yard setbacks. The parcel is nonconforming in lot coverage and floor area ratios.

Lot Area	11,539 sq. ft.
Present Lot Coverage	26.3%

13. Discussion Concerning Dangerous Animals and Review of the Town of Ross' Ordinance.

Mrs. Garril Page, representing the Town for Animal Control, stated that the JPA the Town has appears to be different from that which the County believes the Town has. She asked for Council help concerning the Town's share re fees which have been outstanding for some time.

Mrs. Page explained that the Town needs a dangerous animal ordinance; otherwise the Town would be responsible for hearings, fines, etc.

After some discussion, Councilmembers Barry and Reid offered to meet with Mrs. Page and go over the ordinance and fees, prior to Town Attorney Roth's review.

This matter was continued.

14. Consideration of Ordinance Repealing Chapter 5.12 of Title 5 of the Ross Municipal Code Currently entitled "Peddlers, Solicitors and Agents," and Enacting in its Place a New Chapter 5.12 of Title 5 Entitled "Charitable and Commercial Solicitation."

Town Attorney Roth stated that he had submitted this ordinance for Council review and it would be introduced at a later date. Chief Miller said he would work with Mr. Roth concerning this ordinance.

15. Request for Extension of Variance No. 988, Granted 5/9/91 to Mark D. Herrero and Jan L. Booth, 12 Brookwood Road, AP #073-261-13.

10-10-91
Mr. Herrero said that they were unable to start the project as planned and he felt that he could not complete the work prior to the winter months.

After a short discussion, Councilman Barry moved approval of the six-month extension to 5/9/92, seconded by Councilman Reid and passed unanimously.

16. Request for Extension of Construction Completion Time as Per Ordinance No. 482. Peggy Haas-Jones & David Jones, 10 Morrison Road, AP NO. 72-051-02.

Building Permit No. 12535 Issued: 4/19/90
Original Expiration Date: 4/19/91
First Extension Granted to: 10/19/91 at 5/19/91 Meeting
Request additional ext. to: 4/19/92

Mrs. Hass-Jones explained that they now had a new contractor and because he had to redo several items, they did not feel they could finish the project in time. She stated that they were refurbishing the home and not renovating; consequently it was taking additional time.

Councilman Brekhus said that the Completion Construction ordinance was written to prevent people from dragging out construction that would be detrimental to the neighbors. He felt that the applicant was making a good faith effort to complete the work.

After consideration, Councilman Reid moved that the permit be extended to June 19, 1991, and the applicant submit a \$5000 completion deposit. This was seconded by Councilman Brekhus and passed unanimously.

12 Brookwood Lane



Legend

- Condominium Common Area
- Mobile Home Pad
- City
- Community
- Marin County Legal Boundary
- Other Bay Area County
- Ocean and Bay
- Address
- Parcel Secured
- 2011 USGS Marin 15cm
 - Red: Layer_1
 - Green: Layer_2
 - Blue: Layer_3
- 2012 NAIP 100cm
 - Red: Layer_1
 - Green: Layer_2
 - Blue: Layer_3

1: 1,021



0.0 0 0.02 0.0 Miles

NAD_1983_HARN_StatePlane_California_III_FIPS_0403_Feet
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Notes