



**Staff Report**

**Date:** December 18, 2013  
**To:** Mayor Beach Kuhl and Council Members  
**From:** Elise Semonian, Senior Planner  
**Subject:** Bannon, 112 Winding Way, Setback Variances, File 1941

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**Recommendation**

Town Council approve the project subject to the findings and conditions of approval in the staff report.

**Project Summary**

Owner: Michael and Maren Bannon  
Design Professional: Barbara Chambers, Architect, Chambers + Chambers  
Location: 112 Winding Way  
A.P. Number: 72-101-01  
Zoning: R-1:B-5A (Single Family Residence, 5-acre minimum lot size)  
General Plan: Very Low Density (.1-1 units per acre)  
Flood Zone: Zone X (outside 1-percent annual chance floodplain)

Public hearing to consider an application for setback variances to permit a 160 square foot stair hall between the existing garage and residence, partially within the north side yard setback (25 feet required, 13.5 feet proposed) and front yard setback (25 feet required, 24.5 feet proposed). The existing residence and garage are located partially within the required north side and front yard setbacks.

Gross Lot Area	21,953 square feet		
Existing Floor Area Ratio	3,050 sq. ft.	13.8%	
Proposed Floor Area Ratio	3,210 sq. ft.	14.6%	(15% permitted)
Existing Lot Coverage	2,600 sq. ft.	11.8%	
Proposed Lot Coverage	2,761 sq. ft.	12.5%	(15% permitted)
Existing Impervious Areas	6,454 sq. ft.	29.4%	
Proposed Impervious Areas	6,454 sq. ft.	29.4%	

## **Background and Project Description**

The project site is located on the east side of Town in an area where most lots are at least one acre in size. The zoning district requires a minimum lot size of 5 acres for subdivision. The site is a narrow and sloping lot that, at ½ acre, is undersized for the zoning district. A residence and two car garage are located near Winding Way, the lower and relatively flat area of the site, partially within required setbacks. The remainder of the site slopes steeply uphill. The existing residence and garage have an unusual design and are made up of a variety of roof shapes and angles.

The applicants would like to remodel the residence and add a new stair hall between the garage and residence to correct deficiencies in the existing floor plan and create a fourth bedroom. The project complies with the maximum permitted floor area and lot coverage and adds no impervious surface to the site. Due to the size of the addition, the project is exempt from design review and the Hillside Lot Ordinance.

The project did not go through Advisory Design Review. The applicants submitted the project for a building permit in late November 2013 and were informed that a setback variance would be required. The applicants submit this setback variance application to Town Council so that, if approved, they may proceed with the building permit and begin construction as soon as possible.

## **Discussion**

California State Law and the Town Zoning Ordinance permit the Council to grant exceptions to the zoning regulations when a property is unusual and the strict application of the zoning regulations would “deprive the property of privileges enjoyed by other property in the vicinity and under identical zoning classification.” The council may impose conditions to assure the exception will not constitute a grant of a special privilege to the property. (RMC §18.48.010, California Govt. Code §65906) To approve a variance the Town Council must find:

1. *That there are special circumstances or conditions applicable to the land, building or use referred to in the application.* The lot is smaller and more narrow than others in the R-1:B-5A (5 acre minimum lot size) zoning district.
2. *That the granting of the application is necessary for the preservation and enjoyment of substantial property rights.* Strict application of the zoning regulations would make it difficult to achieve the project goals and bring the site up to permitted floor area without significant demolition of the existing structure.
3. *That 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.* The addition is located between an existing garage and residence and is further from setbacks than existing

development. The project would create a large blank wall on the west elevation. However, this wall is screened by the existing garage and will not be readily visible to the public or neighbors. The existing residence and garage do not comply with required setbacks and this condition has not been detrimental to the public welfare or injurious to the neighborhood.

Staff recommends approval of the setback variances requested for the reasons set forth above and subject to the Conditions of Approval 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. The improved project site may be reassessed at a higher value by the Marin County Assessor, leading to an increase in the Town’s property tax revenues. The Town currently serves the site and there would be no operating or funding impacts associated with the project.

**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.

**Alternative actions**

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

**Attachments**

1. Conditions of Approval
2. Site minute history
3. Material submitted by applicant

### **Conditions of Approval, 112 Winding Way**

Approve the construction of the addition subject to the following conditions of approval, which 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 January 9, 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. Pervious surfaces shall not be converted to impervious surfaces, even after project final, without prior Town Council approval.

3. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.

4. 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.

5. The project shall comply with the Fire Code and comments of the Ross Valley Fire Department (RVFD), including the following (additional conditions may be imposed during review for compliance with the Fire Code):

a) The applicant shall maintain an effective firebreak around the structure by removing and clearing all flammable vegetation and/or other combustible growth. Consult the Ross Valley Fire Department Fire Protection Standard 220 Vegetation/Fuels Management Plan available online at [Rosssvalleyfire.org](http://Rosssvalleyfire.org).

b) Address numbers at least 4" tall shall be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. The address numbers shall be illuminated by a light controlled by a photocell and switched only by a breaker so the numbers will remain illuminated all night.

c) A Knox override switch is required for the gate unless exempted by the Ross Valley Fire Department.

d) Fire Alarm may be required.

6. The project shall comply with the following conditions of the Town of Ross Building Department and Public Works Department:

a. 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.

b. 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.

c. 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.

d. A registered Architect or Engineer's stamp and signature must be placed on all plan pages.

e. 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. 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.

f. The drainage design shall comply with the Town's stormwater ordinance (Ross Municipal Code Chapter 15.54).

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

h. 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.

i. The applicant shall submit a schedule that outlines the scheduling of the site development to the building official. The schedule should clearly show completion of all site grading activities prior to the winter storm season and include implementation of an erosion control plan. 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).

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

k. 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.

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

m. 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).

n. 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.

o. 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.

p. 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.

q. Smoke detectors provided with AC power and interconnected for simultaneous alarm are required.

r. Carbon monoxide alarms shall be provided outside of each dwelling unit sleeping area in the immediate vicinity of the bedroom(s) and on every level of a dwelling unit.

s. Address numbers at least 4" tall shall be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. The address numbers shall be internally illuminated or illuminated by an adjacent light controlled by a photocell and switched only by a breaker so the numbers will remain illuminated all night.

t. 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.

u. 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.

v. The applicant shall submit an erosion control plan with the building permit application for review by the building official/director of public works.

w. 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.

x. 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.

7. 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.