



## STAFF REPORT

**To:** Members of the Design Review Board  
**From:** Community Development Department  
**Subject:** 488 Washington Court; File Nos. DR2016069 and VAR2016019;  
Site Plan and Architectural Review Application for Construction of a  
Fence for an Existing Single-Family Dwelling, with a Variance for Excess  
Fence Height

### PROJECT DATA

**ADDRESS:** 488 WASHINGTON COURT  
**ASSESSOR'S PARCEL:** 034-251-29  
**FILE NUMBERS:** DR2016069 AND VAR2016019  
**OWNER:** MATT MESA  
**APPLICANT:** CLOUGH CONSTRUCTION  
**LOT SIZE:** 7,526 SQUARE FEET  
**ZONING:** R-1 (SINGLE-FAMILY RESIDENTIAL)  
**GENERAL PLAN:** MH (MEDIUM-HIGH DENSITY RESIDENTIAL)  
**FLOOD ZONE:** X  
**DATE COMPLETE:** AUGUST 19, 2016

### PROJECT DESCRIPTION

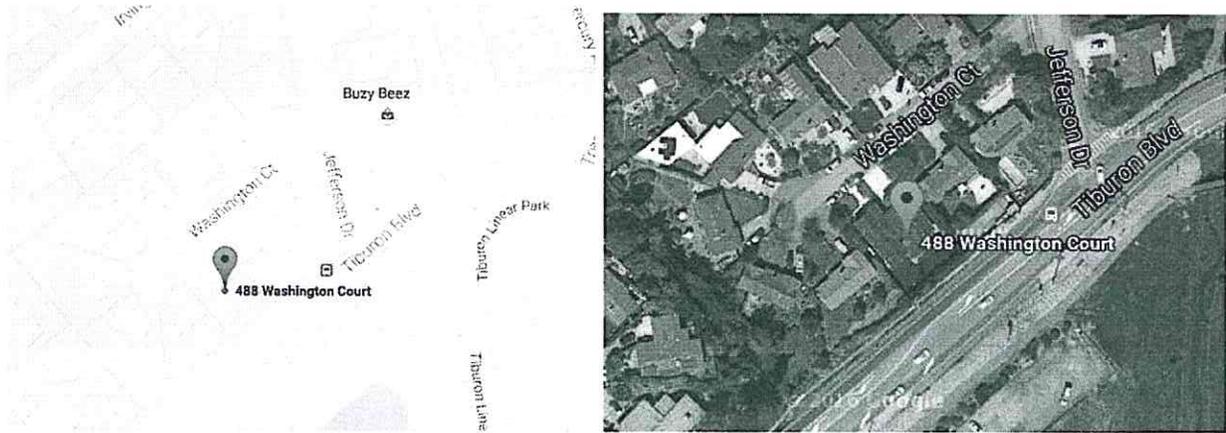
The applicant is requesting design review approval for construction of a fence for an existing single-family dwelling, with a variance for excess fence height, on property located at 488 Washington Court in the Belveron West neighborhood. The property is currently developed with a single-family dwelling.

The proposed redwood fence would be located near the rear property line towards Tiburon Boulevard and would have a maximum height of eight feet (8'). The existing 5 foot tall wooden fence would be raised to the proposed height of 8 feet. The existing vegetation along the rear of the property would remain on the inside of the fence. An existing second wooden fence is located on the outside of the existing 5 foot tall fence and it is unclear if that fence would remain or be removed from the property.

The proposed eight foot fence would connect to the remaining perimeter six foot (6') fence along the other property lines with the exception of the proposed 8 foot tall fence would extend a small portion on the east side property line instead of the 6 foot tall wooden fence.

The maximum permitted fence height within a required setback in any zone is six feet (6'). The applicant is therefore requesting a variance for excess fence height, in order to construct an eight foot fence near the rear property line and a small portion on the east side property line.

## PROJECT SETTING



The subject site is located west of the intersection of Jefferson Drive and Tiburon Boulevard and towards the end of the cul-de-sac on Washington Court. The property abuts Tiburon Boulevard. The rear property is situated at the same elevation as Tiburon Boulevard, but the house and deck would appear to be built up from the boulevard.

## ANALYSIS

### Design Issues

The rear of the house and property are visible above the existing fence line from vehicles and pedestrians traveling along Tiburon Boulevard, which creates a privacy and noise issue for the residents. While the existing vegetation creates a privacy buffer between the residence and the public street for the backyard area, a taller fence would create an additional buffer and lessen the noise impact from the boulevard. In addition, other residences along Juno Road and other locations on Tiburon Boulevard have eight feet tall fences on the rear property due to the close proximity to this busy roadway.

### Zoning

Staff has reviewed the proposal and finds that it is in conformance with the development standards for the R-1 zone, with the exception of the previously noted variance for excess fence height.

### Variance Findings

In order to grant the requested variance for excess fence height, the Board must make all of the following findings required by Section 16-52.030(E) of the Tiburon Zoning Ordinance.

- 1. Because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of this Ordinance will**

**deprive the applicant of privileges enjoyed by other properties in the vicinity and in the same or substantially the same zone.**

The strict application of the six foot maximum fence height in the rear of the site would deprive the applicant of the privilege of maintaining lower noise impact due to the property being adjacent to a busy public street.

- 2. The variance will not constitute a grant of special privileges, inconsistent with the limitations upon other properties in the vicinity and in the same or substantially the same zone.**

This particular request would not constitute a grant of special circumstances, as there have been similar requests for excess fence height due to noise and privacy issues along Trestle Glen Boulevard and Tiburon Boulevard that have been granted by the Board.

- 3. The strict application of this Ordinance would result in practice difficulty or unnecessary physical hardship. Self-created hardships may not be considered amount the factors that might constitute special circumstances. A self-created hardship results from actions taken by present or prior owners of the property that consciously create the very difficulties or hardships claimed as the basis for an application for a variance.**

The strict application of this ordinance would result in practical difficulty for the property, as a six foot high fence would not provide an adequate noise barrier for the rear property from the public street.

- 4. The granting of the variance will not be detrimental to the public welfare or injurious to other property in the vicinity.**

Granting of the variance would not appear to be detrimental or injurious to the public or other properties, as the proposed fence is located adjacent to a public street, and would also not create a nuisance for the adjacent neighbors.

There would appear to be sufficient evidence to support the findings for the variance requested.

## **PUBLIC COMMENT**

As of the date of this report, no public comments have been received regarding the subject application.

## **PRELIMINARY ENVIRONMENTAL DETERMINATION**

Town Planning Division Staff has made a preliminary determination that this proposal would be exempt from the provisions of the California Environmental Quality Act (CEQA), as specified in Section 15303.

## **RECOMMENDATION**

Staff recommends that the Design Review Board:

The Board should review this project with respect to Zoning Ordinance Sections 16-52.020 (H) [Guiding Principles], Section 16-52.030 (E) Variance, and determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15303. If the Board wishes to approve the project and can make the findings necessary to approve the requested variance, it is recommended that the attached conditions of approval be applied.

Attachments:

1. Conditions of Approval
2. Application and Supplemental Materials
3. Submitted Plan

## ATTACHMENT 1

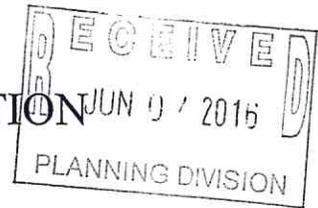
### CONDITIONS OF APPROVAL 488 WASHINGTON COURT FILE NOS. DR2016069 AND VAR2016019

1. This approval shall be used within three (3) years of the approval date, and shall become null and void unless a building permit has been issued.
2. Construction shall conform to the application and plans dated by the Town of Tiburon on June 7, 2016, as amended by these conditions of approval. Any modifications to the plans dated September 1, 2016 must receive Design Review approval.
3. Project elements shown on construction drawings submitted to the Building Division for plan check shall be essentially identical to those project elements shown on drawings approved by the Design Review Board. The permit holder is responsible for clearly identifying on construction drawings any and all changes to project elements. Such changes must be clearly highlighted (with a "bubble" or "cloud") on the construction drawings. A list describing in detail all such changes shall be submitted and attached to the construction drawings, with a signature block to be signed by the Planning Division Staff member indicating whether these changes have been reviewed and are approved, or will require additional Design Review approval. All such changes that have not been explicitly approved by the Town are not "deemed approved" if not highlighted and listed on construction drawings. Construction of any such unapproved project elements is in violation of permit approvals and shall be subject to Stop Work Orders and removal.
4. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
5. A copy of the Planning Division's "Notice of Action" including the attached "Conditions of Approval" for this project shall be copied onto a plan sheet at the beginning of the plans set(s) submitted for the building permits.
6. If this approval is challenged by a third party, the property owner/applicant will be responsible for defending against this challenge, with defense counsel subject to the Town's approval. The property owner/applicant agrees to defend, indemnify and hold the Town of Tiburon harmless from any costs, claims or liabilities arising from the approval, including, without limitations, any award of attorney's fees that might result from the third party challenge.
7. A construction sign shall be posted on the site during construction of the project, in a location plainly visible to the public. The sign shall be 24" x 24" in size and shall be made of durable, weather-resistant materials intended to survive the life of the construction period. The sign shall contain the following information: job street address; work hours allowed per Chapter 13 of the Tiburon Municipal Code; builder (company name, city, state, ZIP code); project manager (name and phone number); and emergency contact (name and phone number reachable at all times). The sign shall be posted at the commencement of work and shall remain posted until the contractor has vacated the site.

8. All new fencing and footings shall be located entirely on the subject property (APN: 034-251-29)



TOWN OF TIBURON  
LAND DEVELOPMENT APPLICATION



TYPE OF APPLICATION

- Conditional Use Permit
- Precise Development Plan
- Secondary Dwelling Unit
- Zoning Text Amendment
- Rezoning or Prezoning
- General Plan Amendment
- Temporary Use Permit
- Design Review (DRB)
- Design Review (Staff Level)
- Variance(s) 1 #
- Floor Area Exception
- Tidelands Permit
- Sign Permit
- Tree Permit
- Tentative Subdivision Map
- Final Subdivision Map
- Parcel Map
- Lot Line Adjustment
- Condominium Use Permit
- Seasonal Rental Unit Permit
- Other \_\_\_\_\_

APPLICANT REQUIRED INFORMATION

SITE ADDRESS: 488 Washington Court PROPERTY SIZE: 7,526 sq. ft.  
PARCEL NUMBER: 034-251-29 ZONING: R-1

PROPERTY OWNER: Matt Mesa  
MAILING ADDRESS: 488 Washington Court Tiburon, CA 94920

PHONE/FAX NUMBER: 415-310-8584 E-MAIL: MMesa@jefferies.com

\*APPLICANT (Other than Property Owner): Clough Construction  
MAILING ADDRESS: 4220 Redwood Hwy San Rafael, CA 94903

PHONE/FAX NUMBER: 415-444-5554 E-MAIL: Scott@cloughconstruction.com  
Blake@cloughconstruction.com

ARCHITECT/DESIGNER/ENGINEER Clough Construction  
MAILING ADDRESS: 4220 Redwood Hwy San Rafael, CA 94903

PHONE/FAX NUMBER: 415-444-5554 E-MAIL: Scott@CloughConstruction.com

*Please indicate with an asterisk (\*) persons to whom Town correspondence should be sent.*

BRIEF DESCRIPTION OF PROPOSED PROJECT (attach separate sheet if needed):  
Build new 11'x6' Side Fence to Connect the Two existing Fences Same  
Style as existing fence.  
Extend existing 8'x6' Back fence to 8' tall Same Style as  
the existing fence

I, the undersigned owner (or authorized agent) of the property herein described, hereby make application for approval of the plans submitted and made a part of this application in accordance with the provisions of the Town Municipal Code, and I hereby certify that the information given is true and correct to the best of my knowledge and belief.

I understand that the requested approval is for my benefit (or that of my principal). Therefore, if the Town grants the approval, with or without conditions, and that action is challenged by a third party, I will be responsible for defending against this challenge, with the defense counsel subject to the Town's approval. I therefore agree to accept this responsibility for defense at the request of the Town and also agree to defend, indemnify and hold the Town harmless from any costs, claims or liabilities arising from the approval, including, without limitation, any award of attorney's fees that might result from the third party challenge.

Signature:\* [Signature] Date: 6-7-16

The property involving this permit request may be subject to deed restrictions called Covenants, Conditions and Restrictions (CC&Rs), which may restrict the property's use and development. These deed restrictions are private agreements and are NOT enforced by the Town of Tiburon. Consequently, development standards specified in such restrictions are NOT considered by the Town when granting permits.

You are advised to determine if the property is subject to deed restrictions and, if so, contact the appropriate homeowners association and adjacent neighbors about your project prior to proceeding with construction. Following this procedure will minimize the potential for disagreement among neighbors and possible litigation.

Signature:\* [Signature] Date: 6-7-16

*\*If other than owner, must have an authorization letter from the owner or evidence of de facto control of the property or premises for purposes of filing this application*

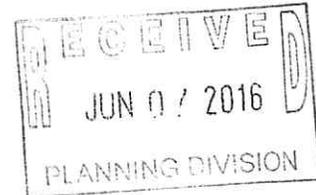
**NOTICE TO APPLICANTS**

Pursuant to California Government Code Section 65945, applicants may request to receive notice from the Town of Tiburon of any general (non-parcel-specific), proposals to adopt or amend the General Plan, Zoning Ordinance, Specific Plans, or an ordinance affecting building or grading permits.

If you wish to receive such notice, then you may make a written request to the Director of Community Development to be included on a mailing list for such purposes, and must specify which types of proposals you wish to receive notice upon. The written request must also specify the length of time you wish to receive such notices (s), and you must provide to the Town a supply of stamped, self-addressed envelopes to facilitate notification. Applicants shall be responsible for maintaining the supply of such envelopes to the Town for the duration of the time period requested for receiving such notices.

The notice will also provide the status of the proposal and the date of any public hearings thereon which have been set. The Town will determine whether a proposal is reasonably related to your pending application, and send the notice on that basis. Such notice shall be updated at least every six weeks unless there is no change to the contents of the notice that would reasonably affect your application. Requests should be mailed to:

Town of Tiburon  
Community Development Department  
Planning Division  
1505 Tiburon Boulevard  
Tiburon, CA 94920  
(415) 435-7390 (Tel) (415) 435-2438(Fax)  
[www.townoftiburon.org](http://www.townoftiburon.org)



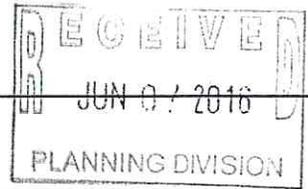
**DO NOT WRITE BELOW THIS LINE**

DEPARTMENTAL PROCESSING INFORMATION		
Application No.: <u>VAR2016-019/DR2016-0691</u>	GP Designation:	Fee Deposit: <u>\$935</u>
Date Received: <u>6/7/16</u>	Received By: <u>LS</u>	Receipt #: <u>R1329</u>
Date Deemed Complete: <u>8/19/16</u>	Action:	By: <u>[Signature]</u>
Acting Body:		Date:
Conditions of Approval or Comments: _____		Resolution or Ordinance # _____

## DESIGN REVIEW SUPPLEMENTAL APPLICATION FORM

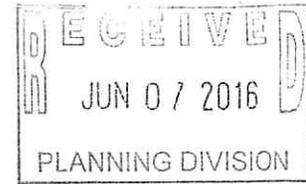
Please fill in the information requested below (attach separate sheet as needed):

1. Briefly describe the proposed project: Build New 11x6' Side Fence to connect the two existing fences same style as existing fence  
Extend existing 85'x6' Back-portion of Side fence to 8' tall same style as existing fence.
  
2. Lot area in square feet (Section 16-100.020(L)): 7,526 sq. ft.
3. Square footage of Landscape Area: \_\_\_\_\_
4. Proposed use of site (example: single family residential, commercial, etc.):  
 Existing SFD  
 Proposed SFD
5. Describe any changes to parking areas including number of parking spaces, turnaround or maneuvering areas.  
None



TO BE COMPLETED BY APPLICANT				STAFF USE ONLY	
ITEM	EXISTING	PROPOSED ADDITION AND/OR ALTERATION	PROPOSED	CAL- CULATED	PER ZONE
<b>Setbacks from property line</b> (Section 16-100.020(Y))* <b>Front</b>	ft.	ft.	ft.	ft.	ft.
<b>Rear</b>	ft.	ft.	ft.	ft.	ft.
<b>Right Side</b>	ft.	ft.	ft.	ft.	ft.
<b>Left Side</b>	ft.	ft.	ft.	ft.	ft.
<b>Maximum Height</b> (Section 16-30.050)*	ft.	ft.	ft.	ft.	ft.
<b>Lot Coverage</b> (Section 16-30.120(B))*	sq.ft.	sq.ft.	sq.ft.	sq.ft.	sq.ft.
<b>Lot Coverage as Percent of Lot Area</b>	%	%	%	%	%
<b>Gross Floor Area</b> (Section 16-100.020(F))*	sq.ft.	sq.ft.	sq.ft.	sq.ft.	sq.ft.

\*Section numbers refer to specific provisions or definitions in the Tiburon Municipal Code Chapter 16 (Zoning)



**COMMUNITY DEVELOPMENT DEPARTMENT**  
 Planning Division (415)-435-7390  
[www.ci.tiburon.ca.us](http://www.ci.tiburon.ca.us)

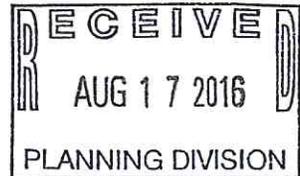
## APPLICATION FOR VARIANCE

A Variance is a form of regulatory relief available when a strict or literal application of zoning development standards would result in practical difficulties or unnecessary physical hardships for an applicant. These difficulties and/or hardships must be caused by physical conditions on, or in the immediate vicinity of, a site. Please refer to Section 16.52.030 of Chapter 16 (Zoning) of the Tiburon Municipal Code for additional information regarding Variances.

### WHAT VARIANCE(S) ARE YOU REQUESTING?

<u>Condition</u>	<u>Zoning Requirement</u>	<u>Existing Condition</u>	<u>This Application Proposes</u>	<u>Magnitude Of Variance Requested</u>
Front Setback	_____	_____	_____	_____
Rear Setback	_____	_____	_____	_____
Left Side Setback	_____	_____	_____	_____
Right Side Setback	_____	_____	_____	_____
Lot Coverage	_____	_____	_____	_____
Height	6'	6'	8'	add 2'
Parcel Area Per Dwelling Unit	_____	_____	_____	_____
Usable Open Space	_____	_____	_____	_____
Parking	_____	_____	_____	_____
Expansion of Nonconformity	_____	_____	_____	_____

Other (Please describe): Raise existing back fence from 6' in height to 8' in height  
The property is on Tiburon Blvd. near Trestle Glen. Vehicle head lights  
into the home. Others have raised their fences in this area



## Response To The Town of Tiburon

APN 034-251-29  
Address: 488 Washington Court  
Applicant: Clough Construction Tel.: 415-444-5554  
Owner: Matt Mesa  
Application #: DR2016069 & VAR2016019  
Date: August 17, 2016

Dear Sirs,

Please find the written statement addressing the reasons to approve the requested variance for a change in existing fence height as shown on the submitted drawings.

The residence is located with the rear yard back fence on Tiburon Blvd. across from Blackies Pasture where there is constant vehicle traffic noise and vehicle lights shinning over the current fence at night. We cordially request this variance for a current 5' tall fence to be elevated to 7' in height along the Southern and a portion of the Eastern property lines to help alleviate this problem. This height change should not affect any of the residents of the Town of Tiburon.

Sincerely,

Scott Clough

Clough Construction

*Decks & Fences that Transform Your Home*