



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
September 15, 2016
Agenda Item: **3**

STAFF REPORT

To: Members of the Design Review Board
From: Community Development Department
Subject: 12 Venus Court; File Nos. DR2016086 and VAR2016023;
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: 12 VENUS COURT
ASSESSOR'S PARCEL: 034-281-12
FILE NUMBERS: DR2016086 AND VAR2016023
OWNER: SARAH BOWEN
APPLICANT: CLOUGH CONSTRUCTION
LOT SIZE: 16,533 SQUARE FEET
ZONING: R-1 (SINGLE-FAMILY RESIDENTIAL)
GENERAL PLAN: MH (MEDIUM-HIGH DENSITY RESIDENTIAL)
FLOOD ZONE: X
DATE COMPLETE: AUGUST 19, 2016

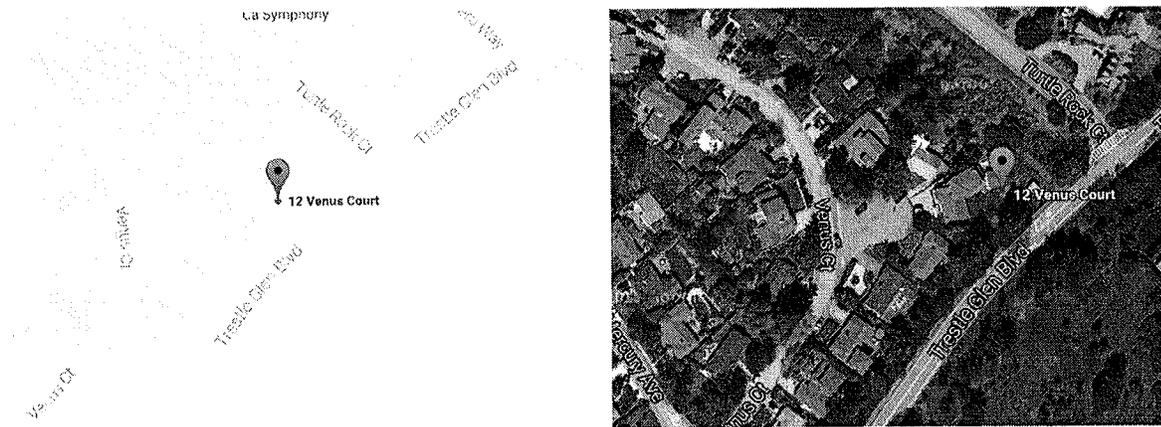
PROJECT DESCRIPTION

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 12 Venus Court in the Belveron East neighborhood. The property is currently developed with a single-family dwelling.

The proposed fencing would be located along the property lines around the perimeter of the property and would vary in height from 5 feet to 9 feet tall. The proposed fencing towards Trestle Glen Boulevard would have a maximum height of nine feet (9') and would be a solid redwood material. The proposed nine foot fence would connect to the remaining perimeter five to six foot tall fence along the other property lines. The majority of the fencing would be utilize solid materials with the exception on the north property line, where an open wood and wire fence would be located. The majority of the existing fencing would be removed.

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 a nine foot fence near the rear property line towards Trestle Glen Boulevard.

PROJECT SETTING



The subject site is located at the end of the cul-de-sac on Venus Court, near the intersection at Turtle Rock Court and Trestle Glen Boulevard. The property abuts Trestle Glen Boulevard. The property is situated at a lower elevation than Trestle Glen Boulevard.

ANALYSIS

Design Issues

The majority of the rear of the house and rear property are visible from vehicles and pedestrians traveling along Trestle Glen Boulevard, which creates a privacy and noise issue for the residents. Other residences along Trestle Glen Boulevard have eight feet tall fences on the rear property due to the close proximity to the busy streets. However, the fences for these other homes have been situated well below the elevation of Trestle Glen Boulevard. The proposed fence would be located much closer to the roadway elevation and substantially uphill from the house location.

Story poles have been installed for the proposed overheight fencing. When viewed from Trestle Glen Boulevard, the height of the fence would block views extending well above the roofline of the house on the site. It appears that a much shorter fence along this portion of the property line, possibly only six feet in height, would be adequate to screen views of the windows and outdoor areas around the home from Trestle Glen Boulevard.

The proposed fence along the rear property towards Trestle Glen Boulevard would be on the property line, which is towards the uphill portion of the property. The fence could be seen from other homes on Venus Court. The materials of the fence would be consistent with the other fences along Trestle Glen Boulevard, but would be taller in height and at a taller elevation. The fence would be 9 feet tall instead of the 8 feet tall fences or the standard 6 feet tall fences in this neighborhood.

The Design Review Board is encouraged to view the story poles from Trestle Glen Boulevard and from the adjacent properties to determine if the proposed height would be necessary to lessen the privacy and noise impacts on the subject property.

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 not appear to deprive the applicant of the privilege of maintaining privacy and reducing noise impacts due to the property being adjacent to the busy street, as the line of sight between the roadway and the living areas of the home could be adequately screened by a six foot tall fence.

- 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. However, the majority of the requests have been for 8 foot tall fences, not for 9 feet tall fencing at a higher elevation above the homes.

- 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 not result in practical difficulty for the property, as a six foot high fence would appear to provide an adequate privacy and noise barrier for the property from the busy 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. However, the extent of the 9 foot tall fence would be visible from portions of Venus Court

There would appear to be insufficient 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 agrees with staff's conclusions, it is recommended that the project be continued with specific direction given to the applicant to reduce the proposed fence height to a more appropriate level. 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

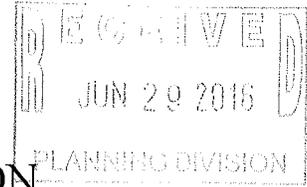
**CONDITIONS OF APPROVAL
12 VENUS COURT
FILE NOS. DR2016086 AND VAR2016023**

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 29, 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: 034-281-12)



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) _____ #
- 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: 12 Venus Court PROPERTY SIZE: 16,533 sq ft
PARCEL NUMBER: 034-281-12 ZONING: R-1

PROPERTY OWNER: Sarah Bowen
MAILING ADDRESS: 12 Venus Court Tiburon, CA 94920

PHONE/FAX NUMBER: 408-613-3211 E-MAIL: jsambowen@mac.com

APPLICANT (Other than Property Owner): JAMES S. Clough - Clough Construction
MAILING ADDRESS: 4220 Redwood Hwy. San Rafael, CA 94903

PHONE/FAX NUMBER: 415-444-5554 E-MAIL: Scott@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):
Remove and replace 55'x6' North Side Wood fence to match existing fence
Build new 76'x6' East Side Deer fence - Wood frame, wire mesh
Build new 106'x9' South East fence wood to match existing wood fence
Build new 55'x6' South Side Wood fence - Gate

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: * _____

Date: 6-29-2016

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: * _____

Date: 6-29-2016

**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:

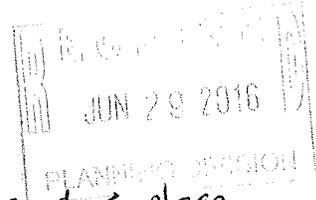
Town of Tiburon
Community Development Department
Planning Division
1505 Tiburon Boulevard
Tiburon, CA 94920
(415) 435-7390 (Tel) (415) 435-2438(Fax)
www.townoftiburon.org

DO NOT WRITE BELOW THIS LINE

DEPARTMENTAL PROCESSING INFORMATION

| | | | | |
|-------------------------------------|-----------------------------|-----------------|---------------------------|-----------------------|
| Application No.: | DR 2016 0826 / MAR 2016 023 | GP Designation: | Fee Deposit: | \$10935 ⁰⁰ |
| Date Received: | 6/29/16 | Received By: | Receipt #: | R1474 |
| Date Deemed Complete: | 8/19/16 | Action: | By: | LO |
| Acting Body: | | | Date: | |
| Conditions of Approval or Comments: | | | Resolution or Ordinance # | |

MINOR ALTERATION SUPPLEMENT

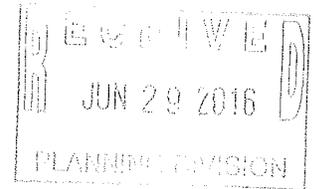


Please fill in the information requested below:

1. Briefly describe the proposed project (attach separate sheet as needed): Remove and replace existing North Side Fence 55'x6' wood to match existing North Side Fence. Build New 76'x6' East Side Deer Fence. Build New 156'x9' South East Wood Fence. Build New 55'x6' South Side Wood Fence.
2. Lot area in square feet (Section 16-100.020(L))*: 16,533 sq. ft. Zoning: R-1
3. Square footage of Landscape Area: _____
4. Proposed use of site (example: single family residential, commercial, etc.):
 Existing SFD
 Proposed SFD No Change
5. Describe any changes to parking areas including number of parking spaces, turnaround or maneuvering areas.
No change

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



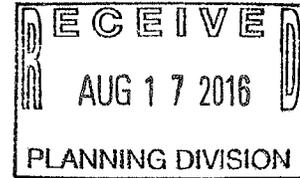
COMMUNITY DEVELOPMENT DEPARTMENT
 Planning Division (415)-435-7390
www.ci.tiburon.ca.us

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' | 0' | 9' | 3' |
| Parcel Area Per Dwelling Unit | _____ | _____ | _____ | _____ |
| Usable Open Space | _____ | _____ | _____ | _____ |
| Parking | _____ | _____ | _____ | _____ |
| Expansion of Nonconformity | _____ | _____ | _____ | _____ |
| Other (Please describe): | Build NEW 106'x9' Wood fence For Privacy from neighbor's view. No impact on neighbor's views. | | | |



Response To The Town of Tiburon

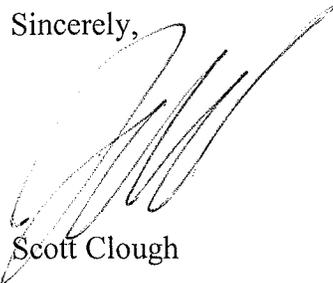
APN 024-281-12
Address: 12 Venus Court
Applicant: Clough Construction Tel.: 415-444-5554
Owner: Sarah Bowen
Application #: DR2016086 & VAR2016023
Date: August 7, 2016

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 property line located on Trestle Glen Blvd. where there is constant vehicle traffic noise and many people walking along the road. There is also a current problem with people throwing trash onto the owner's property and people cutting down a path through the owner's property to access the houses in the neighborhood below. We cordially request this variance for a new wood fence to be constructed from 7' to 9' in height along the South Eastern property lines on Trestle Glen Blvd. to help alleviate this problem. This new fence will be constructed down the current slope of the residence hillside and the top of the fence will not be much higher than the street level on Trestle Glen Blvd. and should not affect any of the residents of the Town of Tiburon.

Sincerely,



Scott Clough

Clough Construction

Decks & Fences that Transform Your Home