
RPOA Recommendations to Council

4 messages

Rpoa Ross <rpoaross@gmail.com>

Sun, Sep 22, 2013 at 4:58 PM


To: beach.kuhl@sedgwicklaw.com, elizabethb@brekhus.com, khoertkorn@gmail.com, rrussell@sflaw.com, carlasmall@aol.com

Cc: Cate Babcock <catebabcock@gmail.com>, fdood@aol.com, amhrfh@comcast.net, clret@comcast.net, iris winey <iris.winey@gmail.com>

Good Afternoon, Council Members,

In the attached two files are items that identify our concerns about "Creeping F.A.R." in our town. We are immensely grateful that you are taking your valuable time to review the matter in the workshop you are having Tuesday morning. Please be so kind as to read our communications. We hope they will be of value to you in the process.

Gratefully,
Cate Babcock

2 attachments **RPOA recommendations to Council.docx**
28K **CREEPING UP F.A.R..docx**
16K

Kuhl, Beach <Beach.Kuhl@sedgwicklaw.com>

Mon, Sep 23, 2013 at 11:13 AM

To: Rpoa Ross <rpoaross@gmail.com>

Cate—

Thanks for your memo. Whether or not the recommendations are adopted, it is really helpful to have thoughts of others in writing well in advance of consideration of the issues by the Council. I appreciate the time and effort that has gone into the preparation of these materials and look forward to a full discussion of the issues raised on October 22.

By the way, I am very appreciative of the tomatoes. They were delicious.

Beach

From: Rpoa Ross [mailto:rpoaross@gmail.com]**Sent:** Sunday, September 22, 2013 4:59 PM**To:** Kuhl, Beach; elizabethb@brekhus.com; khoertkorn@gmail.com; rrussell@sflaw.com;

RPOA Concerns Regarding Increasing FAR Variances and Adherence to Town Ordinances

The Ross Property Owners Association submitted a letter of concern regarding an increase in approved FAR variances and other related issues to the Mayor for distribution to the Ross Town Council and received one response from Elizabeth Brekhus. From our perspective, it is important to understand whether the entire Town Council shares her opinions, or if there are other viewpoints on the matter.

However, at this point we would like to address the issues of increasing approval of FAR variances and adherence to Town Ordinances.

FAR Variances

In regards to FAR variances, attached is a spreadsheet that indicates virtually all requests made to Town Council for a FAR variance over the last year which has been approved in some form. Many of the variances seem to be granted upon the request of a homeowner based on personal or family needs. According to Town Zoning Ordinance, variances should be granted only in the case of hardship, and the personal situation of the homeowner is not, in itself, considered to be a hardship argument. It would be important for us to understand the nature of the arguments and why the FAR variances were approved.

In the past, most of the FAR variance considerations were based upon a number of factors which included what was appropriate for the individual home, the street, the neighborhood, and the Town. The majority of the members of the RPOA Board have lived in Ross for many years, if not decades, and it has been our experience that the previous Town Councils have been more restrictive in their interpretation of what constitutes a variance. We believe this is because they viewed their overall responsibility is to protect the unique aspects of living in Ross-the scale and fabric of our individual neighborhoods and the historic qualities of our homes. They were closely attuned to the differences that exist in our neighborhoods and weighed individual homeowner requests against what best served the interests of the Town and its residents.

Homeowners come and go, individual family needs will come and go as well, but the home will remain, and it is of paramount importance to protect the scale and historic aspects of our Town.

Adherence to other Town Ordinances

The other issue we would like to address is the adherence to Town ordinances and abiding by the Town codes and regulations. We bring your attention to two recent examples of projects in which we believe variances were granted without a thorough understanding of the issues. The first is 8 Woodside and the second is 6 Woodside.

8 Woodside. In the example of 8 Woodside a Legal Hearing Notice was sent out stating that a new garage (excavation and demolition required) was to be 3' off the property line, and in the setback area, when in actuality the project was to be 2'2" off the property line (as stated in the Staff Report). Instead of revising and reposting the Legal Hearing Notice based upon the discrepancy, it was left to stand.

Moreover, the actual location of the property line was presented in a rough boundary diagram with the name of a surveyor, however; it was not signed or stamped. A boundary diagram simply indicates the size and location of property and is not considered to be a reliable reference point for the location of a new structure. Supposedly a survey was performed but never provided to the Town. If a legal survey had been performed it would have indicated exactly where the structure needed to be located to comply with the 3' setback. From our perspective a survey was an absolute requirement to comply with the Town Council approval of the variance.

6 Woodside. This project involved the excavation of approximately 75 cubic yards of dirt when 35 cubic yards is permitted. It also involved counting a lower level partially unexcavated space as a "story" and equated that as existing FAR. We recognize that this was a complicated project, especially the determination of what portion of the space below the house should be counted as existing FAR, but the Staff Report stated

that it was 2,175 square feet, which included a basement of 554 square feet.

We commend the Council for pulling back on the original application which, according to the applicant and the architect, involved an existing house of 3300 square feet.

Ultimately the project was approved for 72.5 cubic yards of grading to lower existing floor area, for 435 square feet of new floor area (which has an existing ceiling height 5.5 feet or greater).

Given the small cottage nature of the home we have a difficult time understanding why so much excavation and additional floor space was approved. Essentially the house was approved to almost double in size. In addition, the house was allowed to be lifted 18 inches when the Basement and Attics Ordinance specifically calls for no material change in the exterior (18.46.020 (2) and (3)b).

These are two simple examples have been cited to inform Town Council that there is serious concern about the increase in FAR for residents and staffs' ability to enforce and abide by their own rules. If Town Council makes a ruling based upon certain criteria provided by the homeowner and/or constraints being met then it is essential that the homeowner abides by the rulings. It may be that the workload is such that our Town staff does not have the resources to ensure that all the rules are followed properly.

At RPOA we take serious exception to Elizabeth Brekhus' statement that we are devaluing residents' properties because people will not buy such homes in Ross if they are forced to comply with set-backs and other planning and zoning laws. The essence of Ross is a mix of homes of all shapes and sizes that have been designed and built over time and our Ross General Plan, planning and zoning laws, and the design review process is meant to protect the unique characteristics of our town. We do believe that some projects over the years which were approved by other Town Councils that were inappropriate; but we also believe that most Town Councils managed the variance process carefully for many years. This is an essential part of keeping Ross a very unique place to

live and in the top tier of neighborhoods in America in which to live for many decades. We feel we are in danger of losing what makes our town a very special place.

We feel strongly, that Council needs to enforce the Ordinances, follow town planning and zoning rules and regulations and stay within the guidelines of the Basement and Attic Ordinance. We also recognize that some homes in Ross were built before current zoning and planning laws were enacted and that variances are an important part of the design, planning, and approval process. It is important for Council to determine when those variances are appropriate, that is when they best serve the interests of the community as well as the resident-balanced to serve both interests. We also believe that Council needs to err on the side of protecting our community interests of the homes of our neighbors.

Summary of Recommendations

Given the above RPOA has developed the following recommendations that should help the staff and Town Council simplify the variance approval process and ensure that projects brought up for consideration are reviewed in a consistent manner:

- **No FAR Variance as the Baseline Approval.** In simple terms, a resident needs to show Town Council what can be done without a FAR variance. Essentially no FAR variance should be the baseline. If a resident requests a FAR variance then they need to show how it compares to a project without a variance. This can be done at the early stages of design with the help of ADR to ensure that homeowners do not spend money unnecessarily. Many residents now believe that they simply need to ask for more from Town Council than what they actually need to ensure that they will get some form of a variance.
- **Verification of Facts and Site Tours.** Make sure before a project goes before Council the facts of the property are verified by a third party (other than the applicant's engineer or architect) such as an outside engineer or architect. The Town should hire staff to verify a project's existing conditions with a thorough site visit, and

overview of existing drawings, and related document facts. This includes an architect or engineer's stamp on the document as proof that they have been properly produced and verified. A homeowner's word cannot be accepted as fact since it is clearly in their interest to increase FAR as much as possible.

- **Make Architectural Design Review a Requirement of Submittal to Town Council.** Currently ADR is simply a discretionary, advisory process to assist homeowners. We understand why their status should remain the same. We also feel that their opinions and comments have been very helpful to many homeowners and have saved a considerable amount of time and money, especially at the early design phases of a project. However, what actually gets submitted to Town Council may in no way reflect the comments or concerns of ADR since homeowners can submit whatever they wish. Essentially, ADR comments may have no relationship to the actual request before Town Council.

We recommend that a homeowner **MUST** have their final project submittal reviewed by ADR prior to going to Town Council for approval and that ADR's detailed comments are part of submittal and the public record (they have not been to date). We believe that this will make the variance process more streamlined and effective.

- **Additional Staff Resources.** Our Town staff does not have time to ensure that the information submitted to Town Council is accurate and correct. RPOA recommends that the Town hire a trained professional to support Elise in verifying facts OR an additional fee for a professional is added to each project so that the Town can contract with a professional on an as needed basis.

Virtually all towns and cities have zoning laws, regulations, and a design review process to protect their interests and ensure the integrity of

what is constructed is in the best interests of the community. The protection of those interests is expressed by design, engineering, and other professionals providing guidance to governing officials.

We seriously disagree with Elizabeth's viewpoint that design is subjective, otherwise why have any regulations and simply let homeowners' do what they wish? One of the most important aspects of Town Council's responsibility is to act in the capacity of making those choices in terms of what constitutes good planning, design and construction.

The RPOA fees that Council has developed a pro-variance reputation and attitude which results in homeowners and architects continuing to push the boundaries of what is acceptable. We also believe that simple changes need to be made to protect the essence of what makes Ross, Ross.

RPOA thanks you for your consideration of these recommendations.

"CREEPING UP" F.A.R.

DATE	OWNER	ADDRESS	EXISTING F.A.R.	PROPOSED F.A.R.	APPROVED
7/13	Nordenstam	50 Willow	26.2	39.6	YES
	Reilly	92 Shady Lane	25.7	31.3	YES
6/13	Ross Commons Holding Company, 83 Bolinas		23.8	31.4	CONTINUED
	Raskin/March	55 Winship	21.9	26.1	YES
5/13	Pickart	33 Wellington	20.4	29.4	YES
4/13	Rosenthal	6 Woodside	33.2	39.8	YES
3/13	Manning	8 Woodside	31.2	32.0	YES
	Reilly	92 Shady Lane	25.7	31.3	YES
2/13	Earl	10 Hill	20.9	22.9	YES
1/13	Hodges	48 Loma Linda	26.7	31.3	YES
11/12	Cook	83 Shady Lane	37.6	47.1	YES
10/12	Cohen	6 Hill	23.5	25.3	YES
	Woodring	53 Poplar	25.9	27.3	YES
7/12	Chase	15 Woodside	19.8	24.5	YES
	Chendo	30 Wellington	24.6	26.1	YES
6/12	Neumann	33 Winship	36.9	44.8	YES
	Wood	42 Fernhill	28.9	30.8	YES
	Steege	93 Bolinas	30.3	31.8	YES
5/12	McLaughlin Burgis	24 Woodside	23.7	32.5	YES
4/12	Roeder	5 Fernhill	26.7	27.1	YES
	Slivon	30 Walnut	20.0	22.5	YES
2/12	Wing-Alpert	30 Baywood	20.4	29.4	YES
	Johnston	61 Sir Francis Drake	18.3	26.5	YES
1/12	McLaughlin Burgis	24 Woodside	23.7	32.5	continue