

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF MAY 7, 2001**

CALL TO ORDER

Commissioners Present: Chair House, Commissioners Harris, Jochum, Morita, Wittenkeller and Zwick (Zwick left the meeting after the first public hearing item.)

Commissioners Absent: None

Staff Present: Acting Planning Director Wight, Planning Intern Chambers

OPEN TIME FOR PUBLIC EXPRESSION

No one spoke during this time.

WITHDRAWN ITEMS

1. **Town of San Anselmo, Ross Valley Fire Department, Station No. 20, 150 Butterfield Road, 5-111-68, public review and comment of a proposed 1,843 square foot accessory building to be used for training purposes. This building is proposed to be located within 20' of the rear property line and within 8' of the south side property line, with a roof peak at 20.5' above grade (Code setbacks: 20' from the rear property line and 8' from the interior side property line; Code height maximum: 30'), located within the PF (Public Facility) Zoning District. (Staff person: Wight) **WITHDRAWN****
2. **U-0104/V0109/DR-0111 - Fred and Elaine LeDrew, 45 Suffield Avenue, APN 5-121-11, use permit for a second living unit; design review of a 461 square foot second story addition (second unit); setback variance for uncovered stairs to be within 4' of the west side property line; parking variance for the third required parking space to be within 0' of the front and west side property lines, on property located within the R-1 Zoning District. (Staff person: Wight) **WITHDRAWN****

CONSENT AGENDA

1. **Minutes** – April 16, 2001
2. **DR-0120/U-0107** – Kathleen Lucido, 59 Essex Street, APN 6-280-73, Design Review and Use Permit amendment to permit an uncovered deck extension from 60 square feet to 162 square feet, located within the SPD (Specific Planned Development) Zone. (Staff person: Chambers)
3. **V-0139** – Tom Harington and Gary Topper, 39 Madera Avenue, APN 6-116-23, variance to allow a 215 square foot addition to be within 0' of the front property line (Code: 20' required) and to be within 5' of the side property line (Code: 8' required), on property located within the R-1 Zoning District. (Staff person: Feagans)

Commissioners' Harris and Morita asked to remove item 2 and 3 for questions.

M/s Wittenkeller/Jochum, and unanimously passed (6-0), to approve Item 1.

59 Essex Street

Commissioner Harris suggested the design request recommended by the Homeowners Association to add the vertical post for the deck extension be incorporated into the existing stairway structure be added as a condition.

M/s Wittenkeller/Harris, and unanimously passed (6-0), to approve DR-0120/U-0107 based on the findings and conditions as set forth in the staff report, and as amended by Commissioner Harris to include the vertical post.

Chair House advised all parties on interest of the ten day appeal period.

39 Madera

Commissioner Morita asked if the oak would have to be removed or trimmed. The applicant responded that the tree would not be removed.

M/s Wittenkeller/Morita, and unanimously passed (6-0), to approve V-0139 based on the findings and conditions as set forth in the staff report.

Chair House advised all parties of interest of the ten-day appeal period.

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PUBLIC HEARING

1. **UP-0105/DR-0118 – Mark Bergquist for CSK Auto, Inc. (Kragen Auto Parts), 820 Sir Francis Drake Boulevard, APN 6-061-13, use permit, design review and sign review for a new auto parts store to locate in the existing 9,210 square foot commercial space, located within the C-3 Zoning District. (Staff person: Feagans)**

M/s Wight presented the staff report.

With regard to Condition 5C, Commissioner Wittenkeller stated he would like to amended the wording to state: "...as conditions warrant..." not just once a day if necessary. It is up to the applicant to keep the parking lot clean at all times, not just once a day.

Tim Wald, Kragen Auto Parts, stated that they have agreed to screen the mechanical equipment and have presented a diagram of the proposal. They intend to wrap a solid band around the existing roof so it becomes an element of the building. They are proposing to use a lightweight aluminum material that will not rust or deteriorate. The material is finely perforated and will be painted the color of the roofing material. They will start the screening at the top of the mansard, which will also provide them access to the equipment. Regarding the colors proposed – he presented a color photograph of their proposal and a sample of the proposed stone, noting that the stone is a multi-colored product ranging from gray to earth tone. They are proposing a third alternative paint color for the Commission. The darker color would be the accent, the lighter color would be the body of the building with the stone at the base of the building. The sign would have white letters and there would be no red in the sign at all. Mr. Wald discussed the landscaping plan and provided an illustration of where the landscaping is proposed. There are also vertical plants as well as vines going up the trellises.

With regard to the recycled oil tank and used batteries, Mr. Wald explained that they are kept in the back room of the building, Regarding the filtration system – the fossil filter would be installed by BPS, and they are proposing this to filter the parking lot runoff, which will be installed in the basin. They are also proposing a valley gutter that will run through a fossil filter system. The fossil filters will be replaced four times a year as suggested by staff. They are serious about maintaining this site and will adhere to the conditions of approval. They want to be a good neighbor. He wanted to clarify his statement from the last meeting with regard to people being a product of their environment. Kragen does try to maintain a clean parking lot but in certain areas it is very difficult to keep them clean. They do, however, try to maintain their sites. He questioned the time deadline for a decision to be rendered of May 5, 2001 as stated in the staff report, noting that today's date is May 7, 2001. Under conditions of approval No. 2 – the on-site manager does have the ability to patrol but cannot enforce. They would be willing to post a sign.

Commissioner Morita commented that the City of San Rafael does have an enforcement procedure. Mr. Wald responded that they would adhere to whatever enforcement the Town of San Anselmo has.

Regarding the proposed traffic study, Mr. Wald stated that they are not a high volume traffic generator and are lower than the Blockbuster Video. They cannot control what streets the patrons use. It did not seem very obvious to him that trucks or customers would use Bella Vista as a turn around. He does not know how the traffic study could be monitored at three and six months.

Commissioner Morita asked about the 8' mechanical screen, noting that it may be higher than is necessary. She also suggested the applicants erect story poles to be able to see the impact of the height. Mr. Wald responded that they were looking at trying to screen the mechanical equipment from all directions, as well as from the parking lot at Safeway, which is at a higher elevation than their site. They are amenable to a shorter screen if necessary.

Commissioner Morita liked the addition of the trellises but would like to include a native vine, such as honeysuckle, in the plantings. She also liked the fossil filter system and would like to have them contact Drainage Protection System four times a year.

Mr. Wald explained that they would have a contract with them and they are provided a certificate of compliance. Commissioner Morita stated that she would like the certificates placed on file in the Building Department.

Commissioner Morita asked about the enforcement of Urban Runoff Pollution Prevention as stated in Section 5-8.13 of the SAMC. Ms. Wight responded that staff would go out to the site on an on-call basis.

Commissioner Morita also wanted the applicant to consider the additional proposals: 1) a sign that states changing oil and adding antifreeze is prohibited by law; 2) a condition that they will not be storing used batteries in the parking lot; 3) Friends of Corte Madera Creek want a phone number posted on the site so if there is a spill, they would know who to contact; 4) the dumpster should comply with Best Management Practices for a commercial business for storm water prevention pollution; 5) there is another storm drain near the trash receptacle that she would like it to also

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have a fossil filter; 6) post a sign at each entry to the building that states it is illegal to leave used motor oil in the parking lot; and 7) allowing large delivery trucks to access the site at 7:00 p.m. may still be considered commute time and would like to have the applicant consider 8:00 p.m.

Mr. Wald responded that the third drain goes into the storm drain that will have a fossil filter system in it. The grading of the site allows the water to drain forward. It would be most appropriate to raise the curb so no water flows into it. It is used for roof water runoff.

Commissioner Wittenkeller suggested the Public Works Director make a final determination on the fossil filter system because the Commission does not know what the implications would be to change the watercourse.

Commissioner Morita also wanted to see trees planted that are on the tree replacement list just adopted by the Town.

Commissioner Wittenkeller stated he is not familiar with the tree list but does know that the laurel has been tried on Sir Francis Drake and has failed. He does not advise the Matten tree either. He would like the final landscaping plan reviewed and approved by staff. The Flowering Pear probably does well in small pockets of soil, but noted that he did not think it is so important to have a native tree as a street tree.

Commissioner Harris asked the applicant if he would be willing to add more trees on the north side. Mr. Wald responded that there is a delivery door and another door there that prohibits the planting of additional trees.

Jerry Erhini, 26 Bella Vista Avenue, asked about the U-turn on Bella Vista and what route the trucks would use to turn around and go back to San Rafael.

Vicki Peterson, 65 Bella Vista, agrees with the practical needs of the citizens of San Anselmo. However, any benefits of a Kragen store would be more negative than positive. There are significant amounts of lubricant in the parking lot of their current stores and the practical reality is that no one can monitor this without strict monitoring by the Town. She is not sure that they will keep the site clean, as evidenced in San Rafael. The violations will occur, especially after the six-month review period. The services offered by Kragen are offered in San Rafael and there is another auto supply store in Fairfax. The use must be consistent with the surrounding community and the owner could find an appropriate tenant in such a prominent site. The overwhelming response from her neighborhood is a signed petition of 85 residents who are in opposition of the use.

Joan Monahan, 304 Becky Court, Novato, stated that she is part owner of the property in question and she has never noticed the Kragen store in San Rafael and has driven by it many times. She took photographs of the Novato store, which she feels is more representative than the San Rafael store. She also took pictures of signage on the Novato site with regard to the oilcans, etc. She noted that the Novato parking lot has never been steam cleaned, which is no different than the Safeway parking lot. The business would provide a service to the community.

Jim Young, 34 Holstein, stated that architecturally, the improvements on the building are wonderful and it will be appealing with the environment where it is situated. He felt that the use in San Anselmo would be good and it would create more revenue for the Town. The applicant wants to improve the value of the building and create a service that is decent and workable for the citizens.

Lynn Dunn, 831 Sir Francis Drake, said she sees this type of business going into a strip mall and does not want that for San Anselmo. People move to San Anselmo because they like the way the town feels.

Scott Couture, 15 Allyn Avenue, stated that the town is putting together guidelines for the downtown. It should have a list of acceptable uses for this site and wondered if an auto part store would be part of that list.

Commissioner Zwick stated that the Kragen people have made many concessions that he hoped they would have come forward at the beginning. I have a lot of sympathy for the building owners. By pushing them forward it gives the impression that they would do less than minimum rather than what is necessary. He went by the San Rafael stores, which, as testified by its management, makes the most money for Kragen. They haven't steam cleaned the parking lot and they haven't tried to improve the site even with this store under discussion. With regard to Kragen's comments that they cannot keep their existing store clean because it is a product of its environment - if their customers create a problem they need to take responsibility for forcing it or closing the store. They have not done either. He does not want to invite someone to San Anselmo like Kragen.

Commissioner Morita stated that her initial feeling was that she did not want them in San Anselmo but the owners had a right to have tenants. Each side has been working to make the project work. She is amazed that 85 people signed a petition of opposition in just a few hours. She cannot support the project at this time.

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Commissioner Jochum stated that the Commission has asked a lot of the Krage people over the last two meetings and they have responded in an appropriate manner. It is also appropriate that the Commission asked what they have asked for. This is a retail business that has a certain clientele and a certain place in any town. He does not blame Krage for coming in with an under design and not being up to speed with our local concerns. They have gotten up to speed quickly and have been professional about it. Regarding the strip mall – this is not a master planned area and it is an existing building that is zoned for retail, which they are significantly upgrading. It is not the Planning Commission roll to decide what business goes in where, they do not do central planning, there is free enterprise and this is a business that he feels meets all the requirements for their use permit and the design review findings that are necessary. He is in support of the project in general. The mechanical equipment screening is definitely necessary and probably the height should be determined that it not be seen from the ground plane by a pedestrian or a vehicles. The signage should be minimized on the building and he is not in favor of telling people what they can and cannot do. A good portion of the signage can be done from inside the store. The potential spillage has been addressed by requiring Krage to put in the fossil filters. Regarding the traffic review – someone would have to demonstrate that this should have to be specific traffic to this project and would have to know a lot more about it.

Commissioner Wittenkeller stated that many years ago San Anselmo had a lot of service stores, more than antique stores. The trend has been away from the service stores; however, Longs and Safeway still exist. He wants to preserve the environment in San Anselmo. The Commission does not select the applicants and the Commission responds to them on a case by case basis. Having a really well done auto store will have great benefits to the Town. The conditions that they have agreed to, with more suggestions made tonight, with the ultimate condition that it is a permitted use only if they maintain all the conditions of the use permit, or the use permit could be revoked. All the physical improvements will be a benefit to the Town, whether or not Krage makes it past the six-month review period. He will vote approval of the project.

Commissioner Harris stated that this is very difficult for him because he agrees with both sides with comments that have already been made. He is on the fence - he does not think that the use permit part of the application as a planning commissioner to determine the type of business that goes on this site so long as it is lawful. He is willing to do that here because of the extensive conditions of approval, with the addition of a few more that he has. Overall they are going to be improving what is there now. The Commission can impose conditions of approval, which would be a better site and operation than Jack n the Box because of the conditions that can be placed on this approval. He has not inspected the site at 3rd street in San Rafael, but does have serious concerns but they do not rise to the code that state Krage would be negative to the health, safety or wellbeing of the community. He would like to add to conditions of approval the following: that a public hearing review shall be within 6 months of start of operation, and another review six months after that, and for the first couple of years of operation, until the Town feels comfortable that there are no issues. It would be the burden of the town to show that the applicant has not complied with the conditions. It does have to be taken very seriously. He would suggest staff check with the Town Attorney about an indemnity agreement in the event of any future environmental degradation. He would be able to support with the additional conditions.

Chair House will support the project with a lot of conditions. The best predictor of future behavior is past behavior. There is not a lot of trust. She could support the project if this site is known as the prettiest store in the country for the Krage chain. The applicants have improved the landscaping but she wants to see even more. The Thai restaurant has roses, Safeway has oleanders, and the 76 Gas station has annuals. This store could be the centerpiece with all the landscaping. She wanted them to use Insalata Restaurant as an example – you can hardly even see the building because of all the landscaping. She likes the latest color scheme that has come in but would like to hear from other Commissioners. She wants a periodic review until the trust level is there and wants a provision for maintenance of the landscaping as part of the conditions of approval. She felt the curb cuts on either side of the driveway should be widened and more rounded to allow cars to be able to enter the site without jumping over the curb.

Commissioner Zwick stated he wanted to make a comment if the project will be approved. He would suggest that staff craft a motion for the next meeting rather than make a decision tonight. He is not familiar with the fossil filters but understands it will be replaced ever so often and he wants to know what the schedule would be. He would like to know how often it gets saturated during a review period, and then they can tell how frequently it is to be replaced.

Ms. Wight stated that she would recommend resolution but wanted to make sure she had all the conditions the Commission wanted. She provided a summary of what she had heard and asked the Commission to make changes as necessary.

Trashcans in the parking lot - to be emptied as on an as needed basis as determined by the town.
Consensus

Roof screen height – Commissioner Wittenkeller stated that there is a roof vent that is taller than all the equipment but it is not offensive to see. If they can lesson the mass and bulk by hiding all the equipment with the exception of the vent, it is okay with him. Should be screen on Sir Francis Drake as viewed from an automobile. Consensus

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Landscaping – Street trees: Flowering Pear. Vines: One vine to be native; one vine on either side of the building to be Boston ivy and the rest of the vines to be reviewed and approved the Planning Director. Want 5-gallon shrubs and 24" box trees. Consensus

Traffic counts – To be done by an independent consultant, paid by the applicant and approved by the Town. Do not add U-turns in the parking lot. Consensus

Patrolling the parking lot – take out the word "enforcement". Consensus

Dumpster – to comply with Best Management Practice (BMP). Consensus

Delivery times: to be once a week during non rush hour hour hour 7:00 p.m. to 9:00 p.m. but not after 9:00 p.m.(use Blockbuster traffic study for non peak hours but not to exceed 9:00 p.m.). Consensus

Signage – All signage shall be inside the store with the exception of a sign by the door or one of the first parking space but in a prominent space that states: Please limit your used motor oil drop off to regular business hours. Spilled or unattended oil can be harmful to our environment. Consensus

Filter – Staff will discuss the wording with the Public Works Director. Consensus

Number of fossil filters – three in total; one on each catch basin.. Consensus

Oil and battery recycling - Will be inside the building and properly maintained so there is no leakage. Consensus

Fossil Filter system inspection – A certificate of Compliance shall be provided to the Town of San Anselmo after each inspection. Consensus

Indemnity Agreement – Staff to discuss with Town Attorney about a hold harmless agreement with regard to harmful spills. Consensus

Periodic review of Use Permit – Staff to discuss with the Town Attorney on how frequently and for what length of time the review can be. Consensus

Curb cuts – Staff to talk with Town Engineer about modification to curb cut.

Colors and materials -

Siding: Coronado Stone, "Idaho Drystack/Aspen", earthtones
Siding: Kelly Moore ?, Mustard
Trim: Kelly Moore ?, Dark Brown
Roof: Dark Gray Shingles

Mr. Wald stated that they have responded positively to the requests of the Commission. He would respectively request that a decision be made now rather than have a continuance.

Commissioner Harris stated that they are at the streamlining act deadline and if the applicant wants a decision he is entitled to it.

Commissioner Wittenkeller said that if he has to vote tonight his vote would change to a no vote. He wants staff to come back with a resolution that includes all the conditions.

Straw vote: Commissioners Jochum and Harris said they could vote yes tonight if all the conditions were included in the approval.

Not having the majority vote, Mr. Wold stated that he would be willing to a continuance to the meeting of May 21, 2001.

M/s Zwick/Wittenkeller, and unanimously passed (6-0) to continue the application to the meeting of 5/21/01 for staff to prepare a resolution of approval.

Commissioner Zwick excused himself from the rest of the meeting.

2. V-0111/DR-0114 – Ernest A. Glono, 1624 San Anselmo Avenue, APN 5-191-17, design review and variance request to: 1) build a new 1,243 square foot, two story house within 6' of the northerly side property line (8' required) and 11' of the southerly side property line (12' required); 2) a variance for 2 parking space (Code: 12' minimum setback on corner lots) to be located within 0' of the side yard setback; located within the R-1 Zoning District. (Staff person: Chambers)

Ms. Wight presented the staff report.

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Mr. Giono stated that he supports the staff report. He explained that his parents bought the lot in 1943 and he currently lives next door at 1628 San Anselmo. He talked to the building inspector with regard to the fence and gate height and he said the fence had to be a solid three-foot fence for a distance of 15' on either side of the driveway.

Commissioner Harris asked the applicant what he is proposing in front of the house on San Anselmo Avenue. Mr. Giono responded that he would like to have a circular driveway on San Anselmo Avenue that crosses onto his family property next door at 1628 San Anselmo Avenue. He also wants to landscape the front and put in pavers. He would like the guest parking to be on San Anselmo Avenue.

Commissioner Wittenkeller commented that he does not want the front of the property looking like a parking lot.

In response to Commissioner Jochum, Mr. Giono clarified that this is a tree cut home and not modular.

Commissioner Harris asked the applicant to consider adding another window on the north side second story bedroom to help break up the mass.

Commissioner Morita stated that other properties in the neighborhood are more open and the fences, if any, are open and inviting. This fence seems pretty imposing. Mr. Giono responded that he would remove the front fence and then reduce the fence along the proposed driveway by fifteen feet on either side of the driveway.

Commissioner Morita asked if the applicant would be amenable to reducing the fence to three feet all around the property. She also asked if it was possible to find a home that would meet the required setbacks.

Mr. Giono responded that he would like to keep the existing fence height if possible because it provides him security and protection from deer. With regard to having a house that met the setbacks, the house would only be 15' wide, which is very narrow and as it is, he is proposing a very small house.

Commissioner Harris asked if there are any legal issues to consider with having the semi circular driveway going over property lines.

Ms. Wight noted that this is flat land design review and issues are light and air, not specific design issues unless there was a nexus.

Commissioner Wittenkeller stated that because the applicant is requesting variances, as well as design review, the Commission has a right to discuss the design. He would like to see a landscape plan for the front of the building, which would help reduce the bulk of the house.

Commissioner Jochum stated that he was not sure how this was ever allowed to be divided like this but because it is a legal lot of record he can make the findings for a variance because of the size of the lot. If there is a nexus with landscaping, he would be willing to look at it, but the Commission is limited because this is only flatland design review. He noted that he did not like the proposed siding and the look of the building as seen from Klare is really unfortunate, but he does not see that the Commission has any power to deny the project.

Commissioner Morita wondered if there was a way to change the lot line to allow this site to work within the required setbacks? Mr. Giono stated that there is no way to do this. Ms. Wight noted that this is a substandard lot which was created in 1926 and they cannot move the lot lines.

Commissioner Wittenkeller stated that he would like to see a plan for the driveway arrangement and landscaping on San Anselmo Avenue. He can, however, support the house as is and he likes the darker gray.

Commissioner Harris echoed the comments of Commissioners' Wittenkeller and Jochum. It would be helpful to know what the whole project is. He would also like to see a window added on the south wall that faces Klare, on the Sierra side, but will not impose that. He would also like to see the plan for the semi circular driveway.

Mr. Giono said he would abandon the idea of the semi circular driveway if the Commission could approve the project without it.

Chair House said she would like the window on Klare but it is the applicant's choice. She could not see what was on the lot because of the fence so she is glad the front fence is being removed on San Anselmo Avenue and will be lowered where the driveway is. She is fearful of having too much pavement in the front and not enough landscaping.

Commissioner Morita said that the house pushes right against the street and feels solid and monolithic, some of which could be emulated by the landscaping in the front, although her preference would be not have a variance.

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Commissioner Wittenkeller would like to see a plan for what is being proposed in the front of the lot and it could be placed on consent.

Commissioner Harris said he would grant approval subject to seeing a proposal for the semi circular driveway.

Commissioner Wittenkeller added that he wants pedestrian circulation to fit in and landscaping to be thoughtfully designed that would fit in well with the neighborhood.

M/s Harris/Wittenkeller, and unanimously passed, to continue the application to the meeting of 5/21/01.

3. U-0106/V-0114 - Marc and Lucy Schneidman, 281-A Crescent Road, A/P 7-222-61, use permit for an existing accessory structure to be converted to a separate second living unit; a parking variance (in conjunction with the second unit) for the existing parking to be within 15' of the front property line and within 6' of the rear property line (Code setbacks: 20'); setback variances for: 1) an existing accessory structure (to be converted to a second unit) to remain within 18.5' of the front property line and within 7.5' of the rear property line (Code setbacks: 20'); 2) a trellis, retaining wall, and barbecue/counter area to be within 11' of the front property line (Code setback: 20'); and 3) for two drystack retaining walls to be within 0' of the east side property line, on property located within the R-1 Zoning District. (Staff person: Wight)

At the request of the applicant, the application was continued to the meeting of 5/21/01.

4. V- 0115/DR-0121 – John and Jill Anderson, 3 Agatha Court, APN 6-013-28, design review of a 710 square foot second story addition to be within 6' of the north side property line; and a parking variance for the existing parking to remain, which is substandard in length between 14' and 22' (Code required length: 19'), located within the R-1 Zoning District. (Staff person: Wight)

Ms. Wight presented the staff report.

Commissioner Wittenkeller asked if they wanted to convert the garage today, would it be safe to say it would not be allowed. Ms. Wight affirmed, noting that staff would be concerned because the driveway is substandard in length.

John Anderson, applicant, agreed with the staff report that the second story addition will not have an adverse impact on the neighbors. They have spoken with the neighbors and they all support the project. They are a family of four living in a two-bedroom house. The study can only be used as a study – there is no closet. Also, there is no bathroom accessible to the study except through the master bedroom. The family room is necessary for them. The option of pulling the wall back in the family room would make the room too narrow and would unusable. Also it is unnecessary to remove a portion of the bath. They did not build the deck, it was there when they bought the house and it is the only outdoor space for their kids. The logical space is to park the cars where they park now. They will however, remove the planter box.

Commissioner Morita asked if it is possible to drive in the driveway and park parallel to Saunders, which would mean removing a small portion of the hedge and a tree, as well as a gate.

Jack and Mary Olive, 7 Agatha Court, stated they support the application. The parking arrangement that is currently there is the best solution. The removal of the planter shouldn't cause any problem and they would urge the Commission to approve the project without any other conditions.

Commissioner Jochum in was in agreement with the staff report. He can support the second story. The lot is very small with current lot coverage of 41 percent, and the parking situation is substandard. In a situation like this, a project that is over the standards of what is allowed in lot coverage, in order to achieve the variance, the parking situation should be remedied. The second solution is not a good one, but the first solution is a good one and could support pushing the front wall of the converted garage back 2'4".

Commissioner Wittenkeller said he could support staff recommendations of approval, which included the removal of the planter and lattice.

Commissioner Harris said this is a substandard lot and understands the community – maybe ask the applicant to determine the cost of moving the wall of the family wall but it is an onerous request. Can make the findings for a variance. Or could support the variance.

Commissioner Morita concurs with the comments of Commissioner Jochum.

Chair House stated that she is in agreement with staff recommendations to require removal of the planter.

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Mr. Anderson commented that as part of the remodel, they are planning to reframe the wall and remove the garage door so it will not look like a garage.

M/s Wittenkeller/Harris, and passed (3-2 Noes: Jochum, Morita), to approve the application based on findings and conditions as set forth in the staff report.

Chair House advised all parties of interest of the ten day appeal period.

5. V-0116 – William Whetstone, 92 Suffield, APN 5-123-24, a variance to place a portable hot tub within 1.5' of the rear property line (Code requires 8'), located within the R-1 Zoning District. (Staff person: Chambers)

Ms. Wight presented the staff report.

William Whetstone, applicant, stated that they purchased this spa last year and when the electrician came to install it, he was told they would probably need a permit. They have a small backyard and it is 29' from the back of the kitchen to the fence. If they put the spa within the setbacks, it would be in the middle of the yard. The shed is really a laundry room with a full bathroom. They do use the back bathroom and they would have to walk around the spa. They want to maintain privacy in the spa and this is the best location, both for them and the neighbors. The Japanese maple is 50' in breadth and the root structure goes all the way to the patio. They need a supporting structure for the hot tub and would have to excavate 1 ½', which would compromise the tree. They have beautiful redwood planter boxes, and would have to rip out the flagstone patio to place the spa in the center of their lot. He spoke the neighbor to the rear and she was in support of the variance.

Commissioner Harris asked when the planter boxes were put in. Mr. Whetstone responded that the back one was there and they put in the extension last August.

Commissioner Harris asked where the two-story house was that the applicant had said would look into their yard. Mr. Whetstone responded that they are to the northwest.

Commissioner Morita stated that they could place the spa in the rear of the lot and not require variances by just removing the right leg of the planter box so it becomes an I-shaped.

Commissioner Jochum said if it weren't for the privacy issue in the back, he wouldn't support it. There does not appear to be any other location to place the spa and get privacy.

Commissioner Wittenkeller said that because it is a portable spa and not a permanent structure, he could support it.

Commissioner Harris said that based on the privacy issues and that the other house is 50' away and the applicant has the neighbor's support, he can make the findings of approval.

Chair House said she could support the variance as proposed for reasons already stated by her colleagues.

M/s Harris/ Jochum, and unanimously passed (5-0), to approve the application based on the fact the hot tub is 50' away from the neighbor to the rear and the privacy factor from the two story house that is located to the northwest; and staff's finding No 2.

Chair House advised all parties of interest of the ten day appeal period.

6. V-0118 – Andrew and Anna Clare, 55 Austin Avenue, APN 7-266-12, a parking variance to maintain the existing garage, remove a portion of the carport in the front yard and extend it towards the rear so that it is within 12' of the front property line (20' from edge of street) in conjunction with the reconstruction of a single family dwelling (Code: 20' front and 8' sides). With amendment to the design review approval of the second story addition. (Staff person: Wight)

Ms. Wight presented the staff report.

Jim Malott, architect representing the applicant, provided a history on how the lot was created. They are proposing to put the house at the 8' setback level so there are no variances for the house. They want to build the original house that was approved last November, with the exception of the 39 square foot bump out in the kitchen, which they are removing. During demolition they found there were 6 different foundation types with no reinforcement and there was no continuity in the foundation. They would either have to tear the building down or tear the building down piece meal. There is no place to put in a two-car garage in the front setback and the spruce tree would have to be removed. There are three garages in the neighborhood that are placed in a similar location to what they are proposing. They can park four cars.

With regard to notifying the Schmidts at 59 Austin, he did leave a set of plans on their doorstep as well as a letter from the owner, introducing themselves. They are aware the building may take part of the Schmidt view but the Goefts at 51 Austin Avenue will also take their view. He also does not

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see any way to restrict all the view. They have not increased the front of the house at all, it is the same as what was just torn down and it is under the 30' height limit. They would not like to lose the spruce tree to make the parking legal.

Commissioner Harris asked if it was possible to lower the structure by going into the hillside. Mr. Malott stated that there is an existing retaining wall that would impact them from lowering the structure. They cannot move the garage without affecting the tree roots.

Andrew Clare, applicant, stated they wanted to minimize the impact in the neighborhood. In October they sent letters from people; he got a call from a brother of the owner of 59 Austin who wanted to know if they would go closer to his property. Mr. Clare stated they were not going to do that so the neighbor said he would have no problems. They also had support from other neighbor. During demolition they encountered many problems. They are requesting to twist the angle of the house so they do not need more variances. They are proposing to cut off 39 square feet and keep the existing garage and are proposing to put additional parking on the site. There are two small bedroom windows and they would be impacting the view on one window but is a moot point because 51 Austin is removing the views from their house as well as the Schmidt residence.

Grant Barber, attorney representing the owner of 59 Austin, stated that he did not find the 6' rule in the planning code and did not see the "above grade" rule. Do not feel that was interpreted in the code and precedent should not be set. The garage – his clients do not have a problem keeping the garage forward but the existing garage remaining where it is. This is a good opportunity to move the garage from the front property lines, subject to removing the offending side yard variance that impacts his client. With regard to view blockage, he did not know how the Geoff residence at 51 Austin affected his clients but if it does, it does not mean that it is okay for the Clares can.

Mr. Malott said the rooms in questions are small bedrooms. All the Schmidt rooms are facing the other side of the Clare house and have a spectacular view of the hill as well as all the sunlight. The view towards the Clare is the secondary view for the Schmidt house.

Mr. Clare said in the course of reconstruction they removed trees. By doing so, it is improving the views for the Schmidt.

Commissioner Wittenkeller said he is in support of the staff report. He understands why the neighbor is upset because he is going to see a structure he is not used to seeing. The garage is almost old enough to be a historic structure and does not affect the neighbor in a negative way and would compromise the front of the new house if it were moved.

Commissioner Harris supports the staff report and Wittenkeller. It is 2" that allows the third story. The code definition of basement and story makes this a two-story, even though there are bedrooms there.

Commissioner Jochum stated that he could support the staff report. It is quite unfortunate that the homeowners have to go through it.

Commissioner Morita respects the code but she has serious doubts that when the two story maximum in the neighborhood, this is really a three story house. Especially in light of the fact that the neighbor will loose a view. Would like to see the applicant reconfigure the house so views are not affected.

M/s Jochum/Wittenkeller, and passed (4-1 Morita to deny), the application based on the findings and conditions as set forth in the staff report.

7. DR-0122 – Java Rama Café, 546 San Anselmo Avenue, APN 6-102-31, design review of a metal fence to surround an outdoor eating area on the Town alley (an encroachment permit will be required); exterior color change to the windows and doors; and plantings on the alley; and sign review, located within the C-2 Zoning District. (Staff person: Wight)

The Commission waived the reading of the staff report.

Commissioner Morita asked if there would be one or more trash receptacles outside the restaurant.

Mr. Ganey, applicant, responded that they are proposing to add one in addition to the two Town trash receptacles that are already there.

Commissioner Wittenkeller commented that he has no problem with the tables and chairs but he does a problem with a permanent barrier being placed in the town right-of-way. He would want to discuss the proposal with the police and fire with regard to safety issues. He did not believe that 4 ½ feet provided adequate room to have two people walk side by side. This is a major entrance into town and is inappropriate.

Commissioner Harris stated that he has an issue with regard to the fence and permanency and what if the applicant has explored other options. He did concur however, that functionally a fence is good because it keeps the patrons within the fence. He wondered if they had considered using smaller tables.

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Mr. Ganey responded that they could have 18" planters at both ends of the doorway and that could be moved in emergency situations. They could also explore alternatives to fencing or some type of barrier that is not permanent and can be moved in an emergency. He noted that people can walk two abreast even with the tables. Another alternative might be to move the fencing over 4" and put the tables closer together and they could use 18" tables. He felt stated that their intent is to improve the corner with the new signage and exterior changes.

Commissioner Wittenkeller stated that he had no objection of using planter boxes at either side of the doorway.

Commissioner Morita suggested that they define the seating area by painting the concrete

Commissioner Wittenkeller said he could also support a painted surface.

Chair House suggested staff meet with police and fire and that the applicant look at alternatives.

Commissioner Jochum suggest the applicant consider using sections of fence that would have gaps in between and that would allow people to get through in an emergency.

Commissioner Harris stated that he is fine with the proposed color scheme all okay with color scheme but wanted to know the number and location of the signage.

Mr. Ganey stated that they would like to come back with a sign design on the alley but want the sign on the San Anselmo Avenue approved tonight if possible.

The consensus of the Commission was that they supported the proposed signage on San Anselmo Avenue.

M/s Harris/Morita, and unanimously passed (5-0), to approve color and signage on San Anselmo Avenue based on the findings and conditions as set forth in the staff report.

M/s Harris/Morita, and unanimously passed (5-0), to continue the fencing and signage on the alley to the meeting of 5/21/01.

GENERAL DISCUSSION

Update/input of review process regarding demolition permits for multi-family projects and the downtown commercial area. – CONTINUED UNTIL MAY 21, 2001.

REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

ADJOURNMENT TO MONDAY, MAY 21, 2001

The meeting was adjourned at 11:50 p.m.

BARBARA CHAMBERS