

**SAN ANSELMO PLANNING COMMISSION**  
**MINUTES OF JUNE 20, 2005**

**A. CALL TO ORDER**

Commissioners Present: Freeman, House, Krebs, Sisich, Zwick  
Commissioners Absent: Harris

**B. OPEN TIME FOR PUBLIC EXPRESSION**

Louise Matthews, Foothill Road, spoke about a recent appeal and the size of a residence.

**C. TOWN OF SAN ANSELMO - Town Councilmember Presentation on Town's Financial Situation**

Wayne Cooper presented a report on the Town's finances and took questions from the Commissioners.

**D. CONTINUED PUBLIC HEARING ITEMS**

NONE

**E. PUBLIC HEARING ITEMS**

**CONSENT AGENDA**

**1. Minutes – June 6, 2005**

M/s Sisich/Freeman and unanimously passed (5-0) to approve the minutes of June 6, 2005.

**2. V-0519/DR-0520 – Jerry and Nancy Pompili, 147 Allyn Avenue, APN 007-093-09, Setback Variance and Hillside Design Review and setback variance to add a family room addition of approximately 474 square feet over the existing garage and a roof deck on top of the family room within 0' of the front property line (Code: 20') and parking variance to permit two substandard parking spaces to remain (Code: 3: 9'x19'), located within the R-1 zoning district (above 150 msl). (staff person: Chambers)**

This item was removed from Consent for further discussion.

**AGENDA**

**2. V-0519/DR-0520 – Jerry and Nancy Pompili, 147 Allyn Avenue, APN 007-093-09, Setback Variance and Hillside Design Review and setback variance to add a family room addition of approximately 474 square feet over the existing garage and a roof deck on top of the family room within 0' of the front property line (Code: 20') and parking variance to permit two substandard parking spaces to remain (Code: 3: 9'x19'), located within the R-1 zoning district (above 150 msl). (staff person: Chambers)**

Planner Chambers introduced the staff report. In response to Chair Zwick, Ms. Chambers explained why she supported the parking variance.

Jerry Pompili, owner, briefly explained his project.

Jay Hallberg, 118 Floribel Avenue, said that the road width and parking are issues. Furthermore, the deck will impact his privacy because his property lies below and to the left, and he does not believe that the variance should be granted. In response to Chair Zwick, Mr. Hallberg said that the turnaround should be improved. In response to Commissioner Krebs, Mr. Hallberg said he believed that a zero setback should not be allowed.

Mr. Pomili, noted that his garage was built according to Town and Building codes.

Commissioner Freeman said that he has seen the property and he cannot understand how the family room will overlook Mr. Hallberg's property. However, Commissioner Freeman thought that the residents of the property across the street might have an issue with privacy but they have not registered an objection.

Commissioner House noted that the owner has already improved the roadway and that the people on the deck will overlook rooftops. Commissioner House does not believe that privacy is an issue.

Commissioner Krebs is concerned that a setback has been set at 0 feet. He believes that such a setback could pose a future privacy problem.

Chair Zwick said he could follow staff's logic to make the findings and that he will support the project.

M/s House/Sisich to approve the staff report. AYES: Freeman, House, Sisich, Zwick, NOE: Krebs.  
Motion carried.

Chair Zwick advised the audience of the 10-day appeal period.

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3. ER-0501/PS-0501/PPD-0501/V-0504 – Carlos and Norine Castro, 444 Redwood Road, APN 007-191-10, Environmental Review (Mitigated Negative Declaration), Parcel Split and Precise Development Plan for a new two-story, 3,562± square foot single family dwelling and 509± square foot attached garage; a parking variance for access to be across 444 Redwood Road; and setback variances for retaining walls up to 7' above grade to be within approximately 18' of the front property line, all in conjunction with widening the road (Code setback: 20') on property located within the R-1H zoning district. (staff person: Wight)

Planning Director Wight introduced the staff report and noted the changes that have been made to the project since the previous hearing.

Steve Arago, Engineer, used the plans to explain the changes to the project since the previous meeting. Mr. Arago noted that the retaining walls have been substantially reduced, which is the reason that a neighborhood meeting was not arranged. However, a meeting took place with the Fire Marshall and modifications to the road have been made.

In response to Commissioner Sisich, Mr. Arago explained the existence of a catchment wall.

Mr. Arago and Chair Zwick discussed the amount of cut and fill that would be necessary for the project, and Mr. Arago said he would check the calculations he had produced.

In response to Commissioner Krebs, Mr. Arago discussed the retaining walls further and the vegetation around the catchment wall, which he said would need to be maintained.

Bill Geisler, 405 Redwood Road, is pleased that the amount of retaining wall has been reduced, although he had hoped that it could be reduced further. Mr. Geisler requested that parking be prohibited if the road is widened. Furthermore, Mr. Geisler requested that culverts are improved for water run-off, which he identified using the plans.

Kathy Sanders, 310 Redwood Road, requested better visibility on the corner where the driveway will be placed and the protection of an oak tree. Ms. Sanders believes that further development should not be allowed in an area that has been deemed a fire hazard and, furthermore, the lot has reached maximum density. Ms. Sanders noted that turnouts are needed on Redwood Road and she said that a deed restriction should be placed on the lot to prevent it from being split further.

Gay Kagy, 280 Redwood Road, explained why she believed a private open space easement should be established. Ms. Kagy described a variety of projects in San Anselmo where such easements had been put in place.

Stephanie Fein, 249 Redwood road, is concerned about tree trimming and the planting and maintaining of trees after the project is completed. Ms. Fein referred to a different project on Redwood Road, and she said that the system for supervising such projects is inadequate.

In response to Commissioner Krebs, Ms. Wight said that landscaping is checked before the Building Department undertakes the final inspection and the Certificate of Occupancy is issued.

In response to Commissioner Zwick, Ms. Wight said that turnouts are part of the Bald Hill Plan. In further response to Commissioner Zwick, Ms. Wight said that the Fire Marshall has not reviewed the landscape in relation to the Urban Wildlife Interface Code, which would take place at the design review stage. Commissioner Zwick said that if tree removal is deemed necessary, the building could be laid bare.

Commissioner Zwick is further concerned that the project necessitates too much off-haul, which makes the site unsuitable.

In response to Commissioner Freeman, Ms. Wight said that the Town Engineer has approved the drainage plans and that she will speak to the Town's Attorney with regard to the legal documentation prohibiting a further lot split, including the suggestion of a private open space easement.

Commissioner Sisich said that the retaining walls have been reduced and that the architect has made changes to the slope, materials and walls as requested at the previous meeting. Thus, Commissioner Sisich supports the project.

Commissioner Krebs shares Commissioner Zwick's concern with regard to tree removal and the effect of the Urban Wildlife Interface Code on the project.

Discussion took place between various Commissioners, Ms. Wight and Mr. Arago, regarding the effect that the Code would have on the project if it were adopted, and whether any part of the project could be approved tonight.

Chair Zwick does not favor the site chosen for the building and he would like accurate information to be produced on the following:

- a. How the site will look on completion;

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- b. How many cubic yards of earth are going to be distributed on the site;
- c. How many cubic yards will be taken off the site;
- d. How many trips will be generated;
- e. How many cubic yards of concrete and how many trucks of concrete must be delivered for the retaining walls and the house.

Commissioner Freeman will not support the Negative Declaration at this time. He would like further information on the number of truck trips and the amount of off-haul, in addition to a vegetation maintenance plan.

Commissioner Krebs agrees with the comments of Chair Zwick and Commissioner Freeman. However, Commissioner Krebs said that the property owners need direction from the Commission.

Commissioner Sisich generally supports the project but he is concerned with the effect of the Urban Wildlife Interface Code on the project, should it be adopted.

Ms. Wight reminded the Commissioners that this discussion concerned the building envelope, only, and not design review of the building.

After consultation between Ms. Wight, the Commissioners and the applicants, Mr. Arago said that his applicants requested an extension.

M/s House/Krebs to move the application to August 1, 2005. Motion passed unanimously.

4. **V-0518/DR-0519 – Bob Schulz and Linda Jensen, 130 Madrone, APN 007-114-16, Height variance to permit a third story (Code maximum: 2), and design review of the second and third story additions totaling approximately 1,570 square feet, located within the R-1 zoning district. (staff person: Chambers)**

Planner Chambers presented the staff report and explained why staff is unable to support the project.

In response to Commissioner Sisich, Ms. Chambers said that the lot is of sufficient size that an addition could be placed elsewhere, away from the trees, which would negate the need for a third story variance.

Commissioner Freeman and Ms. Chambers discussed the project further with regard to Ms. Chamber's concern that a precedent will be set for a third story. Ms. Chambers stated that this is a flat lot, of a substantial size, and there are other locations on the lot to place the addition. Further, another property tried to obtain a third story variance, but was denied by the Town Council. Also, for clarification, the elevations indicate that the original house is three stories, however, she was just advised by the contractor that the floor level of the lower floor is less than six feet, and if this is the case, the existing lower level is not considered a story.

James Josephs, contractor, used the plans to explain the project in greater detail, including the reason for their request for a variance.

In response to Commissioner Sisich, Mr. Josephs acknowledged that covered parking is not a requirement, and that the owners' cars could be parked on the driveway. However, other properties have garages and his clients would like to store their cars in a garage. Furthermore, by creating a third story for parking, they will not need to build another structure on their property, which might be of concern to their neighbors.

In response to Commissioner Krebs, Mr. Josephs said that the height of the addition will be no higher than the existing dwelling. Furthermore, the heritage trees provide screening.

Ms. Chambers noted that the Public Works Director feels the two parking places close to the street will work for ingress and egress, but that the third space at the back is not workable because a heritage valley oak tree is just 10' from the garage.

Everett Farey, 126 Madrone Ave, supports the project.

Kathryn Bradley, 24 Durham Road, believes that the staff report should be upheld to prevent precedent being set elsewhere in the town.

Mr. Josephs said that the tree that is 10' from the garage is, in fact, incorrectly placed on the plans.

In response to Vice-Chair House, Ms. Chambers said that a limit of 5,000 square feet is set on houses in hillside areas but that is not necessarily the case in the flatlands.

Commissioner Freeman is concerned that a third story precedent could be made. Ms. Chambers said that each application is considered separately and that an addition could be allowed if it is felt that special circumstances exist.

Commissioner Sisich felt able to support the application for reasons that included using space for which an addition would probably be approved; not exacerbating a problem because the ridgeline will be lower;

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reducing a blight on the neighborhood by enabling the applicants to store cars and structures under covered parking, rather than in the yard; to protect heritage trees; the affect of this 3-story house will be mitigated by the distance of the house to the west and the heritage trees, which are being preserved, will shield the addition.

Commissioner House opposes three story homes but she felt able to support this project because the height will remain unchanged and the addition will not alter the look of the house from the street.

Commissioner Krebs also opposes three story houses, although it appears that an alternative design might not be satisfactory. However, Commissioner Krebs is concerned that the structure is too large. Chair Zwick is in favor of the project for those reasons stated by Commissioner Sisich.

M/s Sisich/Krebs to allow a third story variance with findings based on the following special circumstances:

1. Using space for which an addition would probably be approved.
2. Not exacerbating a problem because the height of the addition will be lower than the existing house;
3. Placing an addition elsewhere on the lot might be detrimental to the surrounding neighbors;
4. Protect heritage trees;
5. The affect of this 3-story house is mitigated by the distance of the house to the west and screening that will be provided by the heritage trees.

In addition to flatland design review findings that include numbers 1 and 2 of the staff report and part of Number 3 that reads as follows:

'Will not materially affect adversely the health or safety of persons residing or working in the neighborhood.'

Motion carried unanimously.

Chair Zwick reminded the hearing of the 10-day appeal period.

5. **V-0517/DR-0518 – Dean Jones – 70 Bennitt Avenue, APN 005-091-20, setback variance for two of the required on-site parking spaces to be located within 8'-1" of the front property line and within 5' of the south side property line, in conjunction with the development of a single family dwelling; setback variance for a new single family dwelling to be constructed within 3' of the rear property line, north side property line and south side property line; and Hillside Design Review for a new dwelling of approximately 1,139 square feet, located within the R-1 zoning district (above 150' msl). (staff person: Wight)**

Planning Director Wight introduced the staff report.

In response to Commissioner Freeman, Ms. Wight said that the setbacks are not affected by the amendment to the square footage that is noted on the staff report.

In response to Commissioner Sisich, Ms. Wight said that the architect could explain the reasons for the setback being encroached so far.

Dean Jones, applicant, said he is building a small house on his property. It has been designed to meet his needs and it cannot be seen from the street. Mr. Jones used the plans to show why it would be inconvenient to place the house elsewhere on the property.

In response to Commissioner Sisich, Mr. Jones said that 3 feet provides enough space to maintain the retaining wall.

Fred Divine, architect, said that he understood staff's concern. He noted that a 1,500 square foot home could be built on the property but that Mr. Jones wishes to build a smaller structure. Mr. Divine said that 3 feet should provide for adequate fire access and to meet building codes. Mr. Divine explained why he believed that the back wall might constitute a special finding to grant a variance.

In response to Commissioner Krebs, Mr. Divine said that increasing the 3' setback to 5' would probably not be too much of a hardship but that it would interfere with improvements the applicant has made.

Fred Howes, 54 Camino de Herrera, supports the project.

Commissioner Sisich supports the project, although the 3' setback is of concern. However, he notes that the applicant might have chosen to build a structure that had more impact on the neighbors.

Commissioner Freeman said he would feel more comfortable if the setbacks could be extended without causing harm in other ways.

Chair Zwick commended the applicant for building a smaller structure than he could otherwise build. However, Chair Zwick is concerned with the narrow setback and he noted that the applicant owns the neighboring lot, which provides more space.

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Commissioner House agrees with the comments of the previous Commissioners.

Commissioner Krebs would prefer that the applicant adhere to staff's recommendation on setbacks.

The applicant explained why he asked for a 3' setback and noted that a nearby structure has a 0 setback.

Ms. House and various Commissioners discussed the setback further. Ms. Wight explained that although the applicant says he would agree to a restriction to keep the area in front of the proposed dwelling undeveloped (thus prohibiting a future first story expansion), that could be a reason to grant a second story variance in the future. Thus, setbacks should be maintained as far as possible.

Chair Zwick suggested that if the variance were to be approved, he would like the Town's Attorney to suggest a way of preventing a second story being built in the future on either structure.

M/s Freeman/Krebs to continue the project to the meeting of July 18, 2005, for which the applicant has been directed to increase the side yard setbacks to at least 5' and the back yard setback to at least 15'; for the Town Attorney to investigate a means by which a second story and the development of the front of the property could be prohibited. Motion passed unanimously.

6. **SR-0503 - Ford Greene, 711 Sir Francis Drake Blvd., APN 006-083-08, size, height, and changeable copy sign variances (after-the-fact) for a 135 square foot sign located on the west facing building wall; sign review of a 10.67 square foot projecting sign (after-the-fact), and allowance for a similar 12 square foot projecting sign for a future commercial tenant (which would be reviewed administratively at that time) (Code maximum signage for the building: 2 signs per commercial use and total sign area of 55.5 square feet), on property located within the C-L zoning district. (staff person: Wight).**

Planning Director Wight introduced the staff report. Ms. Wight read aloud messages and e-mails of support and opposition to the project that had been received.

Ford Greene, applicant, distributed copies of papers from the Federal Court for the Commissioners' perusal.

Mr. Greene discussed the items in the staff report with which he did not agree and he believes that his sign has been singled out. Mr. Greene said that he had support from the community for his signs. Furthermore, Mr. Greene does not believe that his signs should be categorized under business rules and that political speech should warrant more protection than commercial speech.

The Hearing was opened to the public and the following citizens supported the project:

Mark Keithly, 735 SFD Blvd; Joshua Switky, 181 Prospect Ave; Patricia Murray, Fairfax; Julia Holder, Resident of Marin County; Pascale Soumoy, 3 Ray Court; Liam Remy, San Rafael, Craig Slater of Fairfax; Dillon Jones, 80 Bennitt Ave; Katy Turk, 100 Garden Rock Ct.

The reasons for supporting the sign included the following:

- Agreement with the sign's political messages
- Fast food signs are worse
- There are already many commercial signs
- The sign is a symbol of freedom

Bill Boyle, 145 De Burgh Dr., spoke in opposition to the sign because it is already in violation of the Sign Ordinance and Mr. Greene is asking for a further violation of the Ordinance with this variance. Furthermore, Mr. Boyle believes that a safety issue exists because the sign is designed to be eye-catching and an accident will happen.

Geoffrey Bolton, 240 Los Angeles Ave, said that if the sign were allowed to remain, then the door would be open to all free speech, including hate messages.

In response to Commissioner Sisich, Mr. Roth explained how the changes in the Sign Ordinance, if they are adopted, would affect this sign variance application.

In response to Chair Zwick, Mr. Roth confirmed that this variance falls under the current Ordinance, which he discussed further and noted that a decision should not be based on the content of the sign.

In response to Commissioner Sisich, Mr. Roth said that the sign on the front of the Tamalpais Theatre is non-conforming and is therefore not affected by the Sign Ordinance. Mr. Roth further explained the Court Ruling in more detail and he said that a special circumstance must exist on the property to justify the granting of the variance.

Ms. Wight discussed other signs that are non-conforming. Ms. Wight said that variances would be needed for these signs if they were erected today, and she discussed the size of the sign at Jack-in-the-Box.

In response to Commissioners Krebs and Zwick, Mr. Roth and Ms. Wight discussed the difference between temporary and permanent signs in relation to the Ordinance.

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In response to Commissioner Sisich, Mr. Roth and Ms. Wight explained the size of a sign Mr. Greene could have on his building.

Vice-Chair House said that she is not in favor of large signs and that it must be considered that other similar signs could be erected with a different message. Vice-Chair House said that there is no basis for granting this variance.

Chair Zwick said there is no rational reason in the ordinance that would enable him to support the variance. However, in this instance, Chair Zwick would like a sign like this in San Anselmo, which he believes serves a public good. He favors the sign but he does not know how to make the findings.

Commissioner Freeman feels conflicted. Although the sign violates the Sign Ordinance through its size, he would not want to ban this sign because of the First Amendment. Furthermore, safety could be an issue although an accident has not yet happened. Commissioner Freeman noted that large commercial signs exist and he believes that the argument for the sign consisting of numerous small signs does not carry much weight.

Commissioner Sisich said that a finding could be made because large signs exist in the Town and thus the granting of a special privilege is not being made. Commissioner Sisich does not believe that the sign is a danger to safety because people do other things whilst driving, such as drink coffee. However, Commissioner Sisich believes that the sign could be made smaller whilst getting the message across.

Commissioner Krebs noted that whilst it is important to create diversity in a community, the Commissioners' decision should not be based on the content of the sign. Commissioner Krebs said that a determination should be made that is based on the Ordinance. Although the Commission has the discretion to grant a variance, Commissioner Krebs does not believe that this is appropriate for the granting of a variance given the size of the sign. However, he would favor a smaller message, although he notes that there is a problem in regulating content-based speech.

In response to Chair Zwick, Mr. Greene said that he had no wish to modify the variance he is requesting.

A roll call was made for the following motion:  
M/s House/Krebs to move the staff report.

AYES: House/Krebs  
NOES: Freeman/Sisich/Zwick

Motion failed.

M/s Sisich/Freeman to approve the variance based on the findings that the granting of the variance is not a special privilege due to there being in existence signs that are larger than that which is being requested by the applicant.

AYES: Freeman/Sisich/Zwick  
NOES: House/Krebs

Motion carries.

Commissioner Zwick reminded the audience of the 10-day appeal period.

Commissioner Zwick excused himself from the podium.

7. **DR-0521 – Greg Phillips, 456 Laurel Avenue, portion of APN 007-121-39, 007-121-40 and 007-121-59, design review of a three story, 3,640 square foot single family dwelling, 225 square foot decks, and 450 square foot garage on property currently located within the R-1 H and R-1 C zoning districts (proposed ordinance adoption rezoning property to R-1 C to be considered by Town Council on June 14, 2005, which would then be effective on July 14, 2005) (staff person: Wight).**

Ms. Wight gave a brief overview of the staff report.

In response to Vice-Chair House, Ms. Wight said that the Fire Marshall and Public Works Director believe that the road does not need to be widened.

Greg Phillips, applicant, presented further information on his project to Staff and the Commissioners, which he explained in more detail. Mr. Phillips said that the house has been designed to be in keeping with the neighborhood and to provide privacy and maximum screening.

In response to Commissioner Sisich, Mr. Phillips said that neighbors had provided letters of support.

In further response to Commissioner Sisich, Ms. Wight said that the effective date of the rezoning for this property is 14 July, 2005.

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In response to Kathryn Bradley, 24 Durham Road, Mr. Phillips explained why his house is not considered three-storied, which Ms. Wight confirmed.

In response to Vice-Chair House, Ms. Wight suggested that the resolution include an in-lieu fee that should be paid into an account for downtown beautification if the Fire Department or an arborist declare that additional trees cannot be accommodated on the lot.

Vice-Chair House noted that the colors are lighter than those that are usually favored for hillsides. Ms. Wight said that the colors were considered by staff to be suitable because they are earth tones and the house will not be visible from public property.

Vice-Chair House suggested that color boards be placed at the site at the framing stage before a final decision is made.

In response to Commissioner Krebs, Mr. Phillips noted that his project is the first to be consistent with the Urban Wildlife Interface Code.

M/s Freeman/Sisich to approve the staff report with two amendments:

1. The number of replacement trees to be planted on site shall be reviewed by both the applicant's arborist and the Ross Valley Fire Department prior to issuance of the Certificate of Occupancy. Should it be determined that trees cannot be accommodated on the site, an in-lieu fee shall be paid to the Town to be used exclusively for replacement trees on public property in the town.
2. Prior to the framing inspection, a 4' x 8' sample color board will be placed on the building, subject to staff approval, with the goal being earth tones that will blend in with the environment and natural surroundings.

Motion carried unanimously. Vice-Chair House reminded the audience of the 10-day appeal period.

Chair Zwick returned to the podium.

**E. ITEMS FROM PLANNING COMMISSION**

**F. ITEMS FROM STAFF**

Ms. Wight said that the regular meeting scheduled for 5 July, 2005 needed to be canceled due to staff vacation and shortage of staff.

**G. ADJOURNMENT TO THE NEXT MEETING TO BE DETERMINED.**

The meeting was adjourned at 12.05am to the next meeting, which the Planning Commission determined would be on 18 July, 05.

  
**JOANNE O'HEHIR  
SR. ADMIN. SERVICES ASST.**