

**SAN ANSELMO PLANNING COMMISSION  
MINUTES OF OCTOBER 16, 2006**

**A. CALL TO ORDER**

**Commissioners Present:** House, Harris, Krebs, Overberger, Schinner, Zwick  
**Commissioners Absent:** Sisich

**B. OPEN TIME FOR PUBLIC EXPRESSION**

Louise Matthews, Foothill Road, expressed concern regarding the Consent Agenda. Chair House said that staff will respond in writing at the next meeting.

**C. CONTINUED PUBLIC HEARING ITEMS**

1. **U-0623/DR-0626 - Pat and Gary Phillips, 70 Scenic Avenue, APN 007-054-15**, Use Permit to demolish a single family dwelling; and Flatland Design Review of a 1,124± square foot second story in conjunction with the construction of a new 2,389± square foot single family dwelling located within the R-1 zoning district. (consultant planner: Vazquez) **CONTINUED TO THE MEETING OF NOVEMBER 6, 2006**

**D. PUBLIC HEARING ITEMS  
CONSENT AGENDA**

1. **Minutes – September 18 and October 2, 2006**

M/s Krebs/Overberger, and unanimously passed (6-0) to approve the minutes of September 18 and October 2, 2006.

2. **V-0654 – Mary Eileen Law, 85 Oak Knoll Avenue, APN 007-041-01** – Lot Coverage Variance to permit reconstruction in-kind of a ±104 square foot laundry room and approximately an 8' section of the kitchen wall on a property with 43% lot coverage (Code maximum 35%), within the R-1 zoning district. (staff person: Chambers)

Commissioner Zwick recused himself because he lives within 500 ft of the property.

M/s Harris/Overberger, and unanimously passed (5-0) to approve the staff report for 85 Oak Knoll Avenue.

Chair House reminded the audience of the 10-day appeal period for Items 1 and 2 of the Consent Agenda, and Commissioner Zwick returned to the dais.

3. **V-0651 – Peter and Debbie Fay, 20 Suffield Avenue, APN 5-127-12**, Setback Variance to construct a one-car garage within 4' of the west side property line (Code: 8'), on property located within the R-1 zoning district. (staff person: Chambers)

This item was removed from consent by a member of the public for further discussion.

**REGULAR AGENDA**

3. **V-0651 – Peter and Debbie Fay, 20 Suffield Avenue, APN 5-127-12**, Setback Variance to construct a one-car garage within 4' of the west side property line (Code: 8'), on property located within the R-1 zoning district. (staff person: Chambers)

Kathryn Gant Bradley, Durham Road, expressed concern about setbacks. She believes that special circumstances do not exist to grant the 4' side yard setback, and questioned the lack of a survey.

Planner Chambers said that the policy is to require a survey if the structure is within 3' of the property line. Furthermore, a heritage tree might be impacted if the driveway needed widening to accommodate the garage if it was moved further away from the proposed location.

Peter Fay, applicant, said that a raised walkway would make it difficult to move the garage even further from the property line.

In response to Commissioner Harris, Mr. Fay said that the entrance to the house would be blocked by the garage if the driveway were moved to create a greater side yard setback.

Kathryn Gant Bradley withdrew her objection due to the heritage tree.

Commissioner Schinner said he was concerned that the Commission had required modifications to similar projects in the past in order for them to meet setback requirements, but that he believes the heritage tree meets the findings requirement to support the variance.

M/s Schinner/Harris, and unanimously passed (6-0) to approve the staff report with the special circumstance finding of the location of the heritage tree. Chair House announced the 10-day appeal period to the Town Council.

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4. **V-0653- Steven and Sandra Partee, 1348 Sir Francis Drake Boulevard, APN 005-224-19,** height variance to raise an existing single family dwelling 6' for a height of 34.5' above grade (Code: 30' maximum) to be partially above the December 31, 2005 flood elevation and to provide legal ceiling height for the first story living area; and a parking variance for two of the four on-site parking spaces to be in tandem (existing: 3 parking spaces; proposed: 4 parking spaces; Code: 4 clear parking spaces), on property located in the R-3 (Multiple Family Residential) zoning district. (staff person: (consultant planner: Henderson)

Planning Consultant Diane Henderson introduced the staff report. She explained that staff is able to make the special circumstance finding of the flood that affected the house at the beginning of the year, and would thus support a height increase of 4' to raise the dwelling out of the flood plain. Furthermore, she explained that the property is at a busy intersection that would prohibit a driveway, so staff is able to support the parking variance to allow two of the spaces to be tandem.

However, Ms. Henderson explained the reasons why staff is unable to make findings for the further 2' height increase to allow the increase in ceiling height for the lower floor to make it legal, habitable space, and staff therefore suggests that the project be continued for redesign to meet the legal height restriction on the second floor and the flood elevation.

In response to Commissioner Harris, Ms. Henderson confirmed that the dwelling would constitute a legal three-story building if the variance were granted. Furthermore, the lower floor would then conform to the Building Code.

Ms. Henderson and Commissioner Harris discussed the building height and special circumstance findings in more detail. She said that the action taken tonight will set the maximum height limit and that the Town Engineer has deemed a 4' rise in height sufficient to lift the house out of the flood plain.

Ms. Henderson and various Commissioners discussed height requirements and flood elevations, further. Chair House explained how she perceived the requested variances as two different issues: That if the applicants had requested a height variance before the flood, they might very well have found support, and had they returned with another request after the flood to raise the house out of the flood plain, then they would have been able to count on her support, once more. Thus, Chair House is able to support the application as a two-step process.

In response to Commissioner Krebs, Ms. Henderson said that the need for cars to be pulled off the sidewalk and on to the property would be made a condition of approval and is shown on the plans. A complaint by a neighbor would cause enforcement.

Tom Willis, designer for the project, explained that various ways of reducing the height had been studied, and they concluded the variance is necessary to avoid demolition.

Sandy Partee, applicant, provided background information on the house and its history. She said that her husband is disabled and the use of the lower floor is necessary.

Mary Kinnell, 122 Captains Cove, San Rafael, a former resident of San Anselmo, said that she supports the applicants.

Ken Conroy, 322 Santa Margarita, San Rafael, a former resident of San Anselmo, said that he supports the applicants. They were serious flood victims and he believes that special circumstances exist to grant the variance

Peter Fay, 20 Suffield, supports the applicants. He said that this is a good opportunity to bring the house up to Code, so that it is legally usable and the condition improved.

Mr. Willis said that they do not take their request lightly to raise the house to the extent they have requested.

Mr. Willis and Commissioner Harris discussed the feasibility of reducing the ceiling height of the first floor, which would thus reduce the overall height of the dwelling. Mr. Willis explained the reasons he hesitates to reduce the height to the absolute minimum.

In response to Commissioner Krebs, Ms. Chambers believes that one house exists for which a variance was granted after the flood that raised it above 30 feet.

In response to Commissioner Harris, Ms. Henderson said she believed the privacy of the neighboring property on Sir Francis Drake Blvd would not be affected by the change in height of the windows. She said that the story poles are in place and no comments have been received by the neighbor.

Commissioner Zwick said that he would like to approve the project, and he believes that the Chair's idea of considering the two requested height variances as separate issues might be sufficient to support the project.

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General discussion followed on the room height. Chair House suggested allowing a 1' increase, and Commissioner Overberger expressed concern that future owners of neighboring houses might not be happy living close to a house that is 35' tall. As much as it would be desirable to legalize the unit, the house will forever remain large and tall.

Commissioner Zwick and the architect discussed the plans in more detail, and the ceiling height.

Commissioner Krebs said that he understood what the applicants are trying to accomplish, but that it is desirable to apply the standards uniformly and not give the applicants special treatment. However, he is inclined to support the variances because the project is supported by the neighbors.

Commissioner Harris said he could support the parking variance and height variance to raise the dwelling out of the flood plain. However, he does not believe a variance is necessary if the first floor were raised by 1.5 feet, because it would then meet the Building Code for which special circumstances should not be necessary.

Commissioner Schinner said that it would not be desirable in terms of integrity and the history of the house to tear it down as an alternative to granting the first floor variance. He believes this is a smart use of the existing structure, which is on a busy road and in a high residential neighborhood. He supports a variance to raise the height to 34', which would enable the first floor to conform to Code.

Commissioner Zwick favors the minimum first floor ceiling height to achieve legal habitable space.

M/s Harris/Schinner to approve the 2' 4' height variance for flood protection purposes and the parking variance, with special circumstance findings as set forth in the staff report; that the variance to allow a 7'6" first floor ceiling height is unnecessary because the height is needed to enable the first floor to meet Building Code standards, with an overall dwelling height not to exceed 34'.

Commissioner Zwick suggested an addition to the motion that the project should conform to the standard height limit if 50% if the dwelling is demolished in the course of remodeling. He is concerned that the extended height limit granted by the variances would still apply, as it runs with the land, if the house were substantially remodeled, which is not the intent of the variances.

In response, Planner Chambers said that the applicants would then require a use permit, and Ms. Henderson said that these variances are based on this design. Thus, design review should protect the Commission from the necessity of granting a much larger home with the same height restrictions granted by the variances.

M/s Harris/Schinner, and passed (4:2 against: Zwick/Overberger) to approve the project, with an amendment to the original motion that approval is given only for this project and design and does not apply to anything beyond these boundaries.

**E. ITEMS FROM PLANNING COMMISSION**

Commissioner Harris spoke of his concern about members of the public who record public meetings. Ms. Chambers said she would consult the Town Attorney.

Commissioner Krebs expressed concern that the Town Council has reversed the Commission's ruling on a number of appeals, and he said that the Commissioners must ensure they state all of their reasons for denying a project to provide a good record for the Town Council. He commented on the appeal of 8 Richmond Road, and Ms. Chambers noted that the Council supported the Commission's stance against tandem parking.

Commissioner Zwick suggested that the Commissioners should, perhaps, attend Town Council meetings, particularly when appeals are being heard.

**F. ITEMS FROM STAFF**

Planner Chambers said that the Sign Ordinance should be presented at the first meeting in November.

**G. ADJOURNMENT TO THE MEETING OF MONDAY, NOVEMBER 6, 2006**

The Meeting was adjourned at 8.40pm.

Joanne O'Hehir  
Sr. Admin. Services Asst.