

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF DECEMBER 18, 2006**

A. CALL TO ORDER

Commissioners Present: Krebs, Harris, Purl, Schinner, Sisich, Overberger
Commissioners Absent: Zwick

B. OPEN TIME FOR PUBLIC EXPRESSION

None

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 1/16/07**

5. **DR-0634 – David and Lydia Bell, APN 007-131-14** (vacant lot next to 10 Fernwood Drive), Hillside Design Review to construct a 522± square foot, 2-car garage on a vacant lot, located within the R-1C zoning district. (staff person: Wight) **CONTINUED to 1/16/06**

D. PUBLIC HEARING ITEMS

CONSENT AGENDA

1. **Minutes – December 4, 2006**

M/s Harris/Overberger and unanimously passed to approve the minutes of December 4, 2006.

REGULAR AGENDA

2. **DR-0633 – Jason and Bibit Traut, 214 The Alameda, APN 005-054-07**, Appeal of Planning and Building Director's Approval of Flatland Second Story Design Review of a 554+ square foot second story addition located within the R-1 zoning district. **Appellants: Robert and Elley Matthews, 218 The Alameda.**

Planning Director Wight introduced the staff report, when she explained that flatland design review is necessary because the addition exceeds 400 sq ft. Ms. Wight discussed the findings staff made to approve the project administratively, which has been appealed by the adjacent neighbors who believe their privacy will be affected and the light to their kitchen window will be blocked by the addition. She said that the Commissioners must decide if the addition will affect the neighbors' privacy to an unreasonable degree, and she discussed measures that have been taken to mitigate the neighbors' privacy with regard to view windows. Ms. Wight discussed the concern expressed about the notification process, and she noted that the appellants' names were not on the County's label list because they were recent buyers. In summation, staff believes that sufficient space exists between the two properties that privacy is not a significant factor.

Ms. Wight responded to a question on procedure by Commissioner Harris, and the public comment period opened.

Robert Matthews, The Alameda, the appellants, said that other neighbors are not in support of the project, in addition to themselves, and that they were not given a chance to express their disapproval for reasons he explained. Mr. Matthews said that they had bought the house because of the direct sunlight that pours through the kitchen window and that the privacy of their kitchen will be affected. He asked that the addition be reduced in size.

Jason Traut, applicant, said they are proposing a modest addition; that they are not building to the full height limit of 30 ft, and will not install windows that are directly opposite their neighbors' windows. They are trying to keep within their own space and to the Town's Codes. Mr. Traut submitted materials which he believes show that the light into the neighbors' property will not be affected to the extent they believe. Mr. Traut believes he has made efforts to meet with the neighbors and that he is not creating a giant structure.

Julie Mozena, The Alameda, support the project. The Trauts are good neighbors and they have contributed to the school and neighborhood.

Mr. Matthews said they were not aware that the applicants had tried to make contact.

In response to Commissioner Sisich, Ms. Wight discussed the appeal procedure for this project.

In response to Commissioner Harris, Mr. Matthews used the plans to indicate the position of their kitchen in relation to the new addition.

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF DECEMBER 18, 2006**

In response to Commissioner Schinner, Ms. Wight said that suggestions to ameliorate Mr. Matthew's problems might have included moving the addition either backwards or forwards or raising the window sill heights. However, these were not made as recommendations to the appellant.

Commissioner Sisich commented on the procedure, and said that the appellant's loss of privacy does not appear to be unreasonable. The second floor windows could be moved, but the main problem is access of light to the appellants' kitchen. Furthermore, the loss of sunlight does not seem to be unreasonable and it is not unreasonable for the applicants to enlarge their home. The house is not large and the addition is not huge and it is unreasonable to ask them to build a single level addition. There is more separation between the two dwellings than often exists between other houses in such circumstances, and Commissioner Sisich is inclined to support the applicant.

Commissioner Schinner agrees with the previous Commissioner that the home is small for the lot size and the addition is fairly modest with generous setbacks. The impact to the appellant's light and privacy does not seem unreasonable and the sill height is fairly standard. Commissioner Schinner supports the applicants.

Commissioner Harris sympathizes with the appellants, and noted that the appeal includes items on which the Commission has no jurisdiction. Variances have not been sought, and the appellants' kitchen window is on the side of the addition that has been stepped back from the garage and out of the setback. The addition could potentially move further into the setback. Commissioner Harris believes that the roof pitch could perhaps be altered, which would seem an unreasonable request, and their impairment to light does not appear to be unreasonable. He does not favor straight sheer wall additions, which he addressed in more detail. Commissioner Harris does not favor the appellants.

Commissioner Overberger does not support the appellants. There are similar circumstances in her neighborhood where houses are being raised due to flooding. Each neighbor has rights and it is a matter of balancing those rights, and one does not need approval from one's neighbors. This is a fairly small addition and nothing seems to be inappropriate.

Chair Krebs believes that the addition is modest compared to many, and an effort has been made to limit the size. It does impact the neighbors' privacy to some extent, but he does not think this is unreasonable, and he also believes the loss of light to their kitchen is not an unreasonable amount. Chair Krebs commented on the noticing process and said that homeowners have a right to expand. The Commissioners' role is to determine if there is an unreasonable impact to light, air and privacy.

M/s Sisich/Overberger and passed (5-1 No: Harris) to deny the appeal and adopt the findings in the staff report to approve the project on the grounds that the project will not unreasonably impair access to light and air of structures on neighboring properties; nor will it unreasonably affect the privacy of neighboring properties; and it will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhoods.

Vice Chair Krebs reminded the hearing of the 10-day appeal period.

3. **U-0626/DR-0631 - Jim Brown, 135 Laurel Avenue, APN 007-114-18**, Use Permit to demolish a single family dwelling; Flatland Design Review of a 2,073± square foot second story in conjunction with the construction of a new 4,464± square foot single family dwelling located within the R-1 zoning district. (staff person: Vazquez)

Consultant Planner Vazquez presented a brief staff report, noting that the Commissioners requested the applicant to liaise with the neighbor at 129 Laurel Avenue. Letters of support have since been submitted from neighbors on both sides of the property, and Ms. Vazquez noted staff's recommendation on the original report to approve the project with conditions.

There were no questions from the Commissioners and no-one from the public wished to speak.

M/s Sisich/ Overberger and passed (5-1 No: Harris) to approve the project. Chair Krebs reminded the hearing of the 10-day appeal period.

Commissioner Harris said that he favors the design, but he is concerned that the Town's codes have been pushed to the maximum in terms of setback and height regulations. He noted that FAR (floor area ratio) would be very high if the rules were applicable, and he believes the dwelling will create a street presence that is not in character with the neighborhood. Sustainable development should be encouraged and homeowners should not be encouraged to build the maximum allowable size of dwelling.

4. **DR-0632 - Don and Sharol Oliver, 7 Monterey Avenue, APN 006-012-14**, Flatland Second and Third Story Design Review of a 270± square foot second story addition, a 684± square foot third story addition, and a 56± square foot third story deck, located within the R-1 zoning district. (staff person: Vazquez).

Consultant Planner Vazquez introduced the staff report, when she corrected the staff report in relation to the dwelling height. Ms. Vazquez discussed the project in more detail, noting that the height falls below the 35 feet limit. Furthermore, the addition has been pulled back to meet the 8 feet side yard setback

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF DECEMBER 18, 2006**

code and, thus, the only issue before the Commission tonight is second and third story flatland design review.

Ms. Vazquez discussed the three main issues that can be considered by the Commission, which are impacts to light, air and privacy on neighboring properties. She noted that a shadow might be cast on the neighboring property at 11 Monterey Avenue, but that vegetation is already heavy. Ms. Vazquez said that *access to air will be improved for reasons she explained, and she noted that the greatest impact will be caused to 11 Monterey but that there will be a fence and vegetation to provide screening. Furthermore, windows will be set high to alleviate privacy impacts on this neighbor.*

Ms. Vazquez noted a letter of opposition from 41 Monterey Avenue who believe their privacy will be impacted, but staff believes that substantial space exists between the addition and the dwelling at 41 Monterey Avenue. Ms. Vazquez discussed other letters of support and opposition, noting that an objection was received citing that the development is out of scale with the neighborhood. However, the design has since been revised to meet setback rules, so this finding is not necessary. She noted that staff is able to make findings to support the project in respect of light, air and privacy.

In response to Commissioner Sisich, Ms. Vazquez said that the story poles do not reflect the revised current design and are set two feet too high. In further response to the Commissioner, Planning Director Wight explained why the dwelling is considered to have three stories. They discussed the third story space.

Commissioner Purl and Ms. Vazquez discussed air circulation and what is considered to be reasonable. She gave examples of situations which could be considered problematic.

Commissioner Schinner and Ms. Vazquez discussed the dwelling's height.

In response to Commissioner Purl, Ms. Vazquez explained why the specific finding for scale and intensity of the project is not necessary.

Commissioner Harris and Ms. Vazquez discussed the possibility of moving the house towards the rear property line. Ms. Vazquez said that over 50% of the house is being maintained; that the applicants wish to use the current foundation and she noted that there is little useable land at the back of the property because it slopes steeply.

Steve Hickson, representing the applicants, provided materials to staff and Commissioners regarding the amount of the dwelling that is being affected by construction. He addressed the changes the applicants have made to the project, noting that they have reduced the size of the project. Furthermore, at least 70 feet of space lies between the applicant's dwelling and the neighbors at the back (41 Monterey) who object to the property, and he noted that there will be adequate screening. Mr. Hickson does not believe that the neighbors' privacy will be affected.

In response to Commissioner Schinner, Mr. Hickson said they have reduced the height of the dwelling and designed normal 8' ceiling heights, and he noted that the chimney must rise 2 feet above the highest point of the roof to meet Fire Code regulations.

Paul Hanson, Monterey, commented on a petition and said he opposes the project for reasons he explained. He expressed concern regarding the calculations on the plans and whether the foundation is able to support a third story.

Gary De Baker, Monterey Ave, is concerned by comments made by a representative of the applicants with regard to his hot tub, and he discussed the lack of sidewalks in the vicinity.

Rod Teeple, Monterey Avenue said that he is opposed to the project, in addition to a number of neighbors. He is concerned that the architect for the project is a Planning Commissioner, and he believes that there has been a lack of communication between the applicants and neighbors. He said that their concerns have not been addressed with regard to this being a three-story home, and he questions the lack of topographical survey or geotechnical report. Furthermore, the lot is relatively level and he believes the third story is unnecessary. They disagree with staff's recommendation that there are no privacy issues.

Bernadette Le Maire, Monterey, said that the structure is out of context with the neighborhood, and that a remodeled home should be consistent with the neighborhood. She is concerned by the loss of light and privacy, although her tenants get along well with the applicants. She said it would be nice to see something that fits in with the neighborhood.

Kathryn Gant Bradley, Durham Road, supports the neighbors, and she echoes Mr. Teeple's comments. She believes that the third story will change the neighborhood, and she commented on FAR regulation.

Heidi Teeple, Monterey, said that they live in a three-story home, but that their lot is very steep. She suggested that the applicant use the flat part of the back of their lot to accommodate their expansion. Ms. Teeple said that light and privacy issues are of concern, in addition to a precedent being set to allow three-story homes.

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF DECEMBER 18, 2006**

Mr. Hickson, applicant, said that they have adjusted window heights and moved the addition out of the setback to resolve some of the privacy issues. He does not believe that their neighbors' light or air will be affected by the development. He discussed the foundation in response to Commissioner Krebs, and he noted that a third story has been created by a small amount of space that is reserved for storage.

Mr. Hickson then responded to a question by Commissioner Purl regarding the structural engineering calculations.

Planning and Building Direct Wight said she feels confident that Mr. Zwick has acted in the proper manner, noting that he is not present this evening. Ms. Wight said that the current code requires findings to be based on there not being an unreasonable impact to privacy, light and air on neighboring properties. Furthermore, variances are not being requested and the proposed lot coverage falls below the maximum 35%. A Zoning Ordinance subcommittee recently made recommendations to the Town Council to expand the design review findings and change to FAR, but there have been no public hearings on the potential ordinance revisions.

Mr. Teeple expressed concern about the foundation and problems that are associated with a nearby creek.

Ms. Wight said that the Building Department will determine whether or not the foundation could support a third story, and that the Director of Public Works will review the drainage. These issues do not form part of the Planning Commission's purview.

Commissioner Schinner commented on the General Plan in respect to the integrity of a neighborhood and a project's design, and he said that he would take into account the impact of a project on a neighborhood. In this instance, he is persuaded by the neighbors' passion and feeling, noting that the size of the structure is not the problem, but that the feel of the neighborhood needs to be maintained. Furthermore, a precedent should not be set by granting third story projects, even if they are technically allowable. Commissioner Schinner said that the neighbors have persuaded him that this addition is not appropriate.

Commissioner Harris said he does not live within 500 feet of the property, but that he will abstain from voting because he knows too many people who live in the area. However, he said that he would not allow Commissioner Zwick's role to affect his vote because the Commissioner would not be involved in a project if it were illegal or unethical. He likes the design of the house, which is interesting and different, and he said that the design is not entirely unprecedented, and he referred to a house on Los Angeles that is contemporary/modern looking. Furthermore, the project meets setback requirements. He discussed the reasons that the house consists of three stories and he noted that the stories are not being stacked on top of one another. However, the house is pushing the constraints of the lot, and he believes it is too large. He believes that the scale and intensity of the project from the street side appears to be too large, and he suggested ways of pushing the house back from the street if the current design is desired. However, Commissioner Harris does not believe a privacy issue exists for the property at 41 Monterey.

Commissioner Sisich said that in his experience in Sonoma, architects frequently act as Commissioners, and he noted Commissioner Zwick's absence this evening. He said that he viewed the new development from the Teeple's property line, and he does not believe that privacy will be an issue. He said that many residents have views into neighbors' yards, and that privacy is an issue for immediate neighbors on each side of the property. Commissioner Sisich noted the concerns of the neighbor at number 11 Monterey, but he does not agree that pushing the house towards the back of the lot will be of any help to anyone; that it would necessitate much excavation, and it would be closer to 41 Monterey. He believes that the third story is a non-issue, albeit that the house will be taller than the present dwelling. He believes that some homes in the area might be remodeled in future and the proposed development is not too bulky or too large. Therefore, he would support a continuance in order for the applicant to work with the neighbor at 11 Monterey because he believes the wall is rather large, albeit there are no significant windows on that side. Otherwise, he would support the project.

Commissioner Overberger is able to support the project. She said that this is the first house in the area that will be significantly different to others, but the dwellings around will also go through their cycle of change. Furthermore, although there is a straight wall on the side of 11 Monterey, concessions have been made on that side to the design.

Commissioner Purl supports the project. He said that improving and modernizing small homes usually amounts to building them upwards, and upgrading them to larger homes. In this instance, he does not believe it will cause a big problem; that other houses in the area appear to consist of 3 stories, and he does not believe it will make a fundamental change to the neighborhood. He does not believe this project will cause a major impact.

Chair Krebs said the main issue appears to be the third floor, and he generally does not support three-story homes. However, in this instance, the bottom floor is of a limited kind, and height is the important issue. Two 12 foot floors could be the same height as this property, and the height maximum has not been reached with this design. The height does jump up, but the bulk is being reduced substantially. Overall, the addition is of a relatively modest size, although it is perceived to be large, and it is an important part of the process that the Commission looks at the design objectively. From his perspective, they are limited to making decisions based on light, air and privacy, and he takes his role seriously. Chair Krebs supports the project.

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF DECEMBER 18, 2006**

General discussion followed on the way forward, and Ms. Wight explained the Permit Streamlining Act. A short break occurred, during which Ms. Wight verified the number of votes that would be necessary to approve the project with Commissioner Harris' intention to abstain.

M/s Overberger/Purl, and passed (3:2: Noes Sisich/Schinner; 1 abstention: Harris) to approve the project based on the flatland review findings that:

1. The project will not unreasonably impair access to light and air of structures on neighboring properties;
2. The project will not unreasonably affect the privacy of neighboring properties;
3. The project will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhoods.

Vice Chair Krebs reminded the hearing of the 10-day appeal to the Town Council.

E. ITEMS FROM PLANNING COMMISSION

1. Appoint Chair and Vice Chair for 2007

M/s Sisich/Overberger and passed (5-0) to nominate Vice Chair Krebs as Chair and Commissioner Schinner as Vice chair.


In response to Commissioner Harris, Planning and Building Director Wight said that the Zoning Ordinance is consistent with the General Plan, and she discussed flatland design review findings in relation to the Zoning Ordinance, and the possible changes that might be made as a result of the Zoning Sub-Committee meetings. General discussion followed.

F. ITEMS FROM STAFF

Planning and Building Director Wight updated the Commissioners on the Council's discussion on the Sign Ordinance. She said that changes to the Sign Ordinance should be brought before the Commission at their meeting on 16 January, 2006.

G. ADJOURNMENT TO A SPECIAL MEETING OF TUESDAY, JANUARY 16, 2007

The meeting was adjourned at 9.45pm.


Joanne O'Hehir
Senior Admin. Services Asst.