

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF MARCH 19, 2007**

A. CALL TO ORDER

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

Vice Chair Schinner resumed the Chair in the absence of Chair Krebs.

B. OPEN TIME FOR PUBLIC EXPRESSION

None.

Chair Krebs joined the meeting at 7.05pm and resumed the Chair.

C. CONTINUED PUBLIC HEARING ITEM

1. **V-0707/DR-0707 – Scott and Heidi McCarthy, 114 Alder Avenue, APN 007-041-20**, Setback Variance to construct a 551 square foot garage within 1'-11" of the west side property line and to legalize an existing 111 square foot accessory structure within 1'-5" of the west side property line (Code: 8'), and Setback and Flatland Design Review to add first and second story additions totaling ±1,923 square feet within ±6'-2" of the east side property line, located within the R-1 zoning district. (staff person: Chambers) **CONTINUED TO APRIL 2, 2007**

**D. PUBLIC HEARING ITEMS
CONSENT AGENDA**

1. **Minutes – March 5, 2007**

M/s Harris/Zwick and passed unanimously to approve the minutes with with minor changes.

REGULAR AGENDA

2. **V-0702/DR-0701 – Abraham Kalichman, 157 Meadowcroft Drive, APN 005-142-02**, Setback Variance to construct a first story addition within 5' of the west side property line (Code: 8'); Setback Variance to raise the existing roof a maximum of 4'-4" within 8' of the west side property line (Code: 2' maximum); Lot Coverage Variance to increase the lot coverage up to 38.7% (Code: 35% maximum); and Flatland Design Review to add a 454± square foot second story addition and 108 square foot deck, located within the R-1 zoning district. (staff person: Chambers).

Planner Chambers reported on the meeting that had been scheduled between the neighbors and project architect to discuss the mass and privacy issues relating to the addition. She said that the architect felt confident that the concerns of the neighbors had been satisfied, and she reminded the audience that the Commission did not favor a lot coverage variance. Ms. Chambers went on to discuss the conditions staff would suggest if the Commission feels able to support the project.

In response to Vice Chair Schinner, Ms. Chambers said that new drawings have not been issued to the Commissioners, but that she has seen plans that show the removal of the non-conforming part of the garage that should bring the lot coverage to within about 1% of the maximum lot coverage of 35%. Furthermore, the trellis could be reduced to ensure conformance.

Jim McDonald, project architect, said that the meeting with the neighbors concluded with the agreement to remove a portion of the garage; lower the bedroom roof and reduce the size of a the bathroom window which will be of translucent glass to ensure the neighbors' privacy is maintained. Mr. McDonald said that the lot coverage variance is no longer necessary in light of a portion of the garage being eliminated.

In response to Commissioner Harris, Mr. McDonald said that the deck was discussed at the meeting, but privacy concerns no longer appear to be an issue.

Commissioner Zwick said he would like to see drawings with the new changes, and general discussion followed on the changes. It was generally agreed amongst the Commissioners that drawings are required to verify that the lot coverage has not been exceeded.

Ed Wilkinson, Morningside Drive, reported on the meeting, and noted that some progress had been made. The height has been reduced and they are satisfied with the plans.

Virginia Pierce, Meadowcroft Drive, noted that there were other neighbors who objected to the deck, but she is glad that the height has been lowered and that part of the garage will be removed. Ms. Pierce expressed a wish that the part of the garage scheduled to be demolished is done so by professionals. Although they will have a view of the house at 157 Meadowcroft, they prefer that their property receives more light when the garage is partially removed. In response to Commissioner Sisich, Ms. Pierce said that some neighbors are still concerned about the privacy issues with regard to the deck.

A concerned citizen discussed a construction management plan.

Mr. McDonald expressed concern regarding a construction management plan, which he discussed further with the Chair and Ms. Wight.

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Harlan Malis, Meadowcroft Drive, said he would like strict construction guidelines drawn up, and noted that there has been some compliance towards dumpsters, for example.

General discussion followed on the attendance at the meeting. Commissioner Sisich said he would like to be certain that the neighbors support the deck, and Commission Zwick suggested that the two neighbors who were not present this evening could send a letter in support of the project.

Commissioner Harris is pleased that a meeting between the architect and neighbors took place with some success. He said he will not support a lot coverage variance, but he will support the setback variance. It will be a beautiful residence and the Pierces will gain more light when the garage is partially removed, and he noted that other second floors exist in the neighborhood. Commissioner Harris does not believe the deck will cause an unreasonable impairment to the neighbors' privacy, but he would like to see the revisions discussed with the neighbors.

Vice Chair Schinner is in agreement with the previous Commissioner's comments, but he believes that the Building Department should deal with the construction management plan so that the applicant is not treated differently from any other resident who undertakes a construction project.

Chair Krebs said he would be in favor of the Commission being presented with a construction management plan in the interests of this project being undertaken with as little impact as possible with the guidelines of the Town laid out. He suggested that staff provide guidelines as a condition of approval when the new plans are presented.

Commissioner Overberger drew up a list of items that should be included on the construction management plan.

M/s Harris/ Sisich, and unanimously passed, to continue this item to the Consent Agenda of the meeting of April 2, 2007, at which time revised drawings will be provided, which reflect the changes discussed this evening, and for the inclusion of a construction management plan that will be made a condition of approval for the Commissioner's review. Furthermore, the plans must not exceed the maximum lot coverage.

3. **V-0708/DR-0708 – Scott and Toni Pinsky, 68 Longwood Drive, APN 006-262-23**, Variance to exceed the maximum permitted Floor Area Ratio to 27.9% (Code: 26.3%); and Hillside Design Review to add a ±1,050 square foot addition and decks totaling approximately 703 square feet, located within the R-1 zoning district (above 150' msl). (staff person: Chambers).

Planner Chambers introduced the staff report, noting that staff is unable to support the project because it needs to be stepped down the hillside, rather than stepped out, and that there is no proposed vegetation for screening purposes, although the addition will be visible. The story poles appear to be prominent when viewed from below, and staff suggests that the scope of the project be reduced.

Ms. Chambers noted that a lighting plan has not been provided but that standard conditions could be applied as a condition of approval. She continued with discussion on the floor area ratio (FAR), for which a variance is requested. The FAR has been exceeded by 180 sq ft, and staff is unable to make findings to support a variance.

Jerry Kler, project architect, used a slide presentation to discuss the project in more detail. He expressed surprise that staff does not support this project, and noted that they have unusable space in the garage that has been included in the floor area calculations, but which other towns do not include. Thus, he does not believe they are expanding beyond reasonable limits, and he said it would be necessary to eliminate a room to meet the allowance.

Mr. Kler continued with discussions on the deck, which he believes is not going to be highly visible for reasons he explained. He also discussed landscaping, and said that they had not believed it would be necessary, although they have a list of suitable species from the Fire Marshall. In summation, there are no setback or height variances being requested, and they disagree with the staff report that the project will have an adverse material affect on the neighborhood.

Commissioner Harris and Mr. Kler discussed the colors. Commissioner Harris noted that the Commissioners must abide by San Anselmo's Code, and in response to Commissioner Harris' request that they provide a finding for the Commissioners to support the project, Mr. Kler said that the project will not adversely affect the neighborhood for reasons he explained. Furthermore, he believes that they have had to make changes to accommodate a person with a disability which should allow them to exceed FAR under the 10% rule.

Commissioner Schinner suggested eliminating a bathroom, along with part of the upper level bedroom, to achieve a reduction in footage. In response, Mr. Kler said the removal of a bathroom might be insufficient, and creating a smaller bedroom addition might not make the project worthwhile.

Margaret Gorin, 72 Longwood, said that many houses have decks, and that her deck lies below the applicant's property. The new addition will remove her open space and overwhelm her property, and she wishes for the Commissioners to visit her deck and view the story poles.

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In response to Commissioner Schinner, Ms. Gorin said that the architect has not called upon her, and she only knew about the project when she received the notice and saw the agenda posted on the property.

Susan Lund, 151 Jordan Avenue, said that she views the property from her house and the project appears to be tasteful and she supports the application.

A concerned citizen said she would like the Commission to support the staff report.

Ms. Gorin said that she would be unable to sell her property if the addition and deck are built.

In response, Mr. Kler said that anyone on Ms. Gorin's deck would have to look back uphill, and the view of the addition would not be clear because there is sufficient foliage. The addition would not appear to be anyone's primary or secondary view.

Scott Pinsky, applicant, explained why they did not wish to build a second story, noting their concern about blocking the view of the neighbors across the street. They wrote to their neighbors about their proposal and received one query to which they responded.

The hearing was closed to public comment.

Commissioner Sisich and Mr. Kler discussed ceiling heights.

Commissioner Harris said that he understood the applicant's explanation for the project, but that the Commissioners are bound by Ordinance with a limitation on FAR. They are asking for a larger home than allowed and he has not heard anything inherent about the property itself that would warrant the granting of a variance. He expects the design to be altered to reduce the FAR and meet the Code.

Commissioner Sisich said that the addition is not huge and the lot is large, but he sees no compelling reason to support the FAR. He said the addition has been tucked down, that he likes the roof feature, although it could be lowered. He would vote for a continuance so that he could visit Ms. Gorin and ascertain the effect of the addition from her deck.

Commissioner Zwick said that the project is a nice design but if the roof were gabled and pitched to 13 feet, then there would not have been the reaction heard tonight. Also, the profile should be kept as low as possible, which it has at the front, but not at the back. Furthermore, the Commission has a problem approving any project that exceeds FAR regulations, and the bathrooms could perhaps be redesigned and the music room changed to reduce the addition by 185 feet. An entire room does not need to be removed.

Commissioner Purl suggested that the excess space could be allowed under the rule that the FAR might be exceeded by 10% because they have made some hallway in the existing house wider to comply with ADA. Commissioner Harris noted that ADA does not apply to residential.

Commissioner Harris and Ms. Wight discussed the necessary findings, and Ms. Wight explained the purpose of allowing the maximum FAR to be exceeded by 10% has to do with the internal circulation of a dwelling.

Chair Krebs said that he appreciates the design and that the addition is relatively modest, but he is troubled by the FAR variance. He said he visited the property and also 166 Longview to get an uphill view, and he was not aware of the story poles being so visible. However, he is gravitating towards requesting a redesign, or perhaps they could explain where the justification lies for exceeding the FAR.

Commissioner Overberger said she would like to approve the variance, but they are granted only in exceptional cases and it is usually possible to redesign a project to make it conform to Code. It is difficult for her to make an exception when the design includes a music room. Commissioner Overberger would like them to convince her that there is something about the property that would enable her to make the findings to allow the additional floor space, but there does not appear to be a reason to grant the variance.

Commissioner Schinner supports a continuance because he cannot make the finding that the extra space is necessary. He would like the project to comply with the Code and to visit the neighbor's property to ascertain the potential intrusion. Furthermore, he said that the architect and the neighbor should hold a meeting.

General discussion followed about ways of reducing the square footage. Mr. Kler said he was prepared to remove the lower 350 sq. ft. level, which would eliminate the FAR variance.

Commissioner Harris said that exceeding the FAR limit is the only issue as far as he is concerned and he commented on the lower story. Chair Krebs agrees that the FAR is the main stumbling block, although he wanted to see how the addition will look if part of the lower floor is removed as the architect suggested.

M/ Purl to approve the variance in the in the spirit of what has been designed to accommodate a disabled relative, allowing the FAR limit to be exceeded by 10% because the additional space is necessary in order to comply with the Americans With Disability Act. The motion died through lack of a second.

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M/s Harris/Sisich and unanimously passed (7-0) to continue this item to the Consent Agenda of the next meeting so that the Commission is able to review plans which eliminate the lower floor office to bring the project into compliance with FAR regulations.

Commissioner Harris then withdrew his motion and said he would like to see the revised drawings show that the project meets the FAR regulations, and Ms. Chambers reminded the Commission that a decision needs to be made on the colors.

M/s Harris/Zwick, and unanimously passed (7-0) to continue this item to the next meeting on April 2, 2007.

4. **Z-0701/ER-0701 - TOWN OF SAN ANSELMO**, Environmental Review (Negative Declaration) and Revisions to the Zoning Ordinance of the Town of San Anselmo (including development standards for structures: setbacks, height, lot coverage, and floor area; fences and vegetative screening; parking and driveways; demolition of structures; definitions and uses; required findings; design review; nonconforming structures), and additional recommendations from the Zoning Ordinance Sub-Committee for future consideration.

The reading of the staff report was waived.

Footnote 21

Planning and Building Director Wight explained that this footnote was added so that it is clear there is a Public Works Code addressing setbacks from watercourses.

Ms. Wight went on to discuss the FAR tables that have been drawn up since the last meeting, one of which shows a sliding scale of 45% to 40%, one that is 45% to 35%, and another table that compares the existing lot coverage calculation.

In response to Commissioner Purl, Ms. Wight said that 400 sq ft would be discounted to allow for a garage, which encourages off-street parking. Commissioner Zwick explained why both lot coverage and FAR could be considered, noting that either one could be used but the maximum not exceeded.

Non-Conforming Uses

Discussion turned to non-conforming uses. Todd Smith, Assistant Town Attorney, said that it is usual for jurisdictions to allow for the maintenance of non-conforming buildings, which he discussed further.

Chair Krebs noted a minor change on Page 2.

In response to Commissioner Overberger, Ms. Wight said that wording had been removed about providing access for construction because it is explained elsewhere in the Code.

In response to Commissioner Harris, Mr. Smith said that any illegal non-conforming use will have to be addressed by being brought into conformance or for approval to be obtained to legalize the structure. He explained that this section deals with legal non-conforming uses, and it does not purport to deal with illegal non-conforming uses. General discussion followed.

Minor Exceptions

Ms. Wight explained why a minor exceptions rule is being considered, which is to eliminate the special circumstance finding, and Mr. Smith said that findings for variances should be difficult to make. General discussion followed.

Ms. Wight discussed changes made to the Floor Area Ratio.

A concerned citizen commented on an Ordinance change at the City of Belvedere, to which Mr. Smith responded.

In response to Commissioner Harris, Ms. Wight said that Article 14.5 would apply to residential construction developments in the flatland.

Gay Kagy, Redwood Road, expressed concern that a minor exception could be acted upon by the Planning and Building Director, rather than being presented to the Planning Commission. In response, Ms. Wight said that notification would still need to be made, and Mr. Smith said that staff would make the determination as to whether or not the item would be heard by the Commission. Chair Krebs and Ms. Wight discussed this further.

A concerned citizen said that more publicity is needed to alert residents to these meetings on zoning changes, to which Mr. Smith replied that there was plenty of notice time given to the public should they wish to take part in discussions.

Chair Krebs suggested that further publicity might be considered when discussions reach the Town Council level.

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Scott Couture commended the changes to the Zoning Code, which he said allows the Planning and Building Director or Planning Commission to use both discretion and compassion in the findings which is good for a small town.

Commissioner Purl and Mr. Smith discussed differences in minor exceptions that would dictate whether they were dealt with by the Planning Commission or by Planning staff. Mr. Smith said that the differences lay in the findings, which he explained further.

Commissioner Harris discussed the difficulties of the proposed Article 14.5, where a property might apply for more than one planning application for a minor exception. Mr. Smith suggested changes to the language in section 10-3.14.504, which would include a cap on the number of minor exceptions that could apply to one property. Discussion followed.

Vice Chair Schinner discussed his concern that an additional 150 feet could be viewed as a minor exception. Following general discussion, it was agreed that the limit would be reduced to 100 feet.

Gay Kagy commended the Planning and Building Director and Mr. Smith on the findings, which she said are very clear.

A concerned citizen commented on bay windows.

Under Section 10-3.14.505, (a) de-minimus will be italicized, and under (e) 150 sq ft will be changed to "100 sq ft, whichever is less".

Scott Couture said that he cannot encourage the switch to FAR highly enough, whereas lot coverage is a recipe for bad design. He would not reject an FAR and lot coverage, which works well in the hillsides, too. He commented on a sliding scale in response to Commissioner Zwick.

Gay Kagy expressed concern with a sliding scale; that there might be a problem if a survey is not required for a lot to ascertain its size. In response, Commissioner Zwick noted that surveys are required where the setback is 3 feet or less, and he said that they are not usually accurate. Ms. Wight said that surveys are expensive to require for every project.

A concerned citizen commented on the necessity of a survey.

Scott Couture said that he requires a survey before he undertakes a project and he commented on their importance.

E. ITEMS FROM PLANNING COMMISSION

None.

F. ITEMS FROM STAFF

None.

G. ADJOURNMENT TO REGULAR MEETING OF MONDAY, APRIL 2, 2007

The meeting was adjourned at 10.55pm.


Joanne O'Hehir
Sr. Admin. Services Asst.