

TOWN OF SAN ANSELMO PLANNING COMMISSION
MINUTES, NOVEMBER 19, 2007

A. CALL TO ORDER

Commissioners present: Krebs, Harris, Overberger, Schinner, Sisich,
Commissioners absent: Zwick

B. OPEN TIME FOR PUBLIC EXPRESSION

C. CONTINUED ITEMS

1. **V-0727 – Susan Hoy, 90 Melville avenue, APN 007-263-31**, Setback and parking Variance to construct a 398± square foot garage with a 398± square foot studio on top of the garage within 4' of the north side yard property line and 9'-6" of the rear property line (Code: 8' and 20'); and a Lot Coverage Variance to allow the proposed two story structure on property with an existing lot coverage of 39.8% (Code maximum: 35%), located in the R-1 zoning district. (staff person: Chambers) **CONTINUED TO 12/3/07**
2. **Minutes of November 5, 2007 CONTINUED TO 12/3/07**

D. PUBLIC HEARING ITEMS

CONSENT AGENDA

1. **Minutes – October 15, 2007**

M/s Harris/Sisich to approve the October 15, 2007 minutes as submitted.

2. **V-0736/DR-0737 – John and Julie Martel, 39 Sunnyside Drive, APN 007-263-27**, Flatland Design Review and Setback Variance to add a 104 square foot first story and 683 square foot second story addition within 18'9" ± of the rear property line (Code: 20'), located within the R-1 zoning district. (staff person: Chambers)

M/s Pascal/Overberger and passed (5-0) to move the staff report.

REGULAR AGENDA

3. **DR-0734/V-0738 – Larry and Debbie Stadtner, 10 Foss Avenue, APN 007-232-50**, Flatland Design Review of a ± 1,617 second story addition, 126 square foot 2nd story deck and 180 square foot roof deck over the 1st floor, in conjunction with a new ± 3,974 square foot dwelling; and Setback Variances for retaining walls ranging between 4' and 8' in height to be located within 0' of the west side property line; a driveway retaining wall ranging between 4' and 6' in height to be located within 12' of the front property line; and a landscape retaining wall up to 12.5' in height within 0' of the west side and rear property lines (Code: 20' and front and rear; 8' sides), on property located in the R-1 zoning district. (staff person: Wight)

Planning and Building Director Lisa Wight presented the staff report and noted that the application had been heard on October 1, 2007 and continued for redesign.

In response to Commissioner Schinner's question of whether the nine opposing property owners have changed their position, Wight noted that correspondence was received from the adjacent neighboring property on Sunnyside Avenue only since the last hearing, and she redistributed the correspondence received for the previous hearing.

Commissioner Sisich asked Wight if there was any alternative window glazing proposed; she answered no.

Architect Jeff Kroot reported that the revised plans since the last meeting have the proposed house moved forward on the property, the roof peak reduced in height, and the roof pitch reduced. Kroot noted that lowering the floor level of the first floor technically placed a portion of the upper floor into a first story category, which means a smaller portion of the upper floor is subject to design review. Kroot also noted that on the west side elevation, the dormer has been removed and on bedroom #1 on the east side the windows have been replaced with higher windows. Kroot also mentioned that all windows indicate that there is no privacy impact, therefore omitting the need for glazing. Kroot further stated that the photos taken from a bucket truck at the proposed window and deck heights show no privacy issues with the neighbors. In regards to the shadow study,

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Kroot noted that it was prepared by Chuck Clemons of Energy Calc Co, and he prepared the bird's eye shadow views based on Clemons' data.

Commissioner Harris asked how much soil would be excavated from the site and the applicant responded approximately 650 cubic yards and noted that it would be available if someone in the neighborhood was in need. Otherwise it would be taken away.

Schinner asked Kroot for the heights of each floor and Kroot responded: garage is 9 feet, living room 9½ feet, upper floor 9 feet.

Tim Navone, Foss Avenue, stated that all nine families who initially opposed the project still do and stated that he is frustrated that there was no computer generated shadow study and that the Commission's recommendation to the applicant not to pull the house forward and to meet with the neighbors prior to the redesign did not happen. Navone also stated that the applicant made changes to the design, then made efforts to talk with some neighbors individually, but declined to meet with the neighbors as a group. Navone also stated that Commissioner Zwick recommended that the redesign be more than just a tweak to the current design and that the current proposal is not a real redesign. Navone further stated that it feels like the entire block is opposed to the project and the Planning Commission seems to be the advocate. Finally, Navone noted that the home does not go with the neighborhood and that it seems that with the change of staff on the project and on the board, and not having Commissioners Zwick and Krebs present at the current meeting, a disservice is being done to the process. Navone noted that he hoped the project would be continued until all Commissioners were present, if the vote would not be going in the direction that the community favors.

Lenny Nash, Foss Avenue, stated that he lives diagonally across from the proposed project and that he has had good conversation with the applicant. Nash noted that the applicant asked him what could be done to make the community happy and his reply was Navone's comments are representative of what the neighborhood feels.

Stephen Willrich, Sunnyside Avenue, stated that he was in opposition to the project and that he met with the applicant and architect, but that the meeting was more of a presentation of the plans that had already been submitted. Willrich stated that he asked the applicant if he was interested in meeting with neighbors and the applicant declined. Willrich noted that the submitted plans represent minor adjustments and that the house will impact sunlight in the primary living space and exterior garden space of his property. Willrich noted that the mentioned spaces are used on a regular basis and is the only source of direct natural sunlight. Willrich further stated that the architect did not follow the direction of the Commission to use a computer generated shadow study and that sunlight and privacy will be impacted. Willrich also asked the Commission about the size of the windows and noted that there was not documentation to such and that it is important to understand that sunlight and privacy will be impacted. Willrich also requested that the Commission require the applicant to replace the bamboo plant material with that of specific size and species as the existing bamboo is serving as a retaining wall. Willrich also noted that the shared property line needs to be addressed, to which the applicant responded he is willing to work together to solve.

Barbara Stewart, Foss Avenue stated that she is concerned with the character of the neighborhood. Stewart stated that she is concerned that the new house will be significant and agreed that if the 3rd floor could be tucked back it would make a huge difference on the site.

Joan Baysor, Foss Avenue, stated that she is concerned with the size of the house, as she has lived in the Town for 50 years. Baysor also stated that people without large incomes will not be able to live in the Town. Baysor also challenged the Commission to think about the kind of town they would like San Anselmo to be and to also be concerned with global warming. Finally, Baysor noted that she hopes the applicants can be great neighbors.

Cameron Hicks, Crescent Avenue, noted that he expected some redesign of the top floor to reduce its size. Hicks also noted that it was nice to receive clarification on Town Codes as he was very confused when he read the staff report.

Kroot responded that the shadow study was done by a reputable consultant and also submitted a photograph of 129 Sunnyside that shows the house completely shaded by the existing bamboo. Kroot also noted that the applicant met with neighbors, but if there is no middle ground, what can be accomplished? Kroot also mentioned that much of the family room is completely underground and that the roof is no higher than the house at 14 Foss.

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Applicant noted that he did talk to some neighbors and that there were some who do support the project at 14 Foss. Applicant also stated that there are plenty of houses within a couple of blocks that are 3000+ square feet and that he is not sure how his project changes the neighborhood.

Neil Sorenson, Applicant's attorney, stated that he heard comments that are not relevant to the design review. Sorenson stated that there are no negative findings for impact to light and privacy.

Wight noted that it is important that people walk away understanding how the application was processed. Wight noted that the shadow study that was submitted is typical of what the Planning Commission receives and that while the prior study did not provide adequate information, the new study is adequate. Wight also stated that she worked closely with the consultant who wrote the first staff report and was able to make the findings to support this project because of the Code required findings of no unreasonable impact on light, air or privacy. Wight also explained how she discovered that technically a portion of what was considered second floor at the first hearing, became first floor with the revised plan because the dwelling is proposed to be dug into the ground, which means that portion was no longer subject to design review.

Commissioner Harris said he agrees with the applicant's comments that our task here is unfortunately very constrained and an example of why our zoning code needs to change. This project is right at the line of reasonableness as far as light and privacy goes, and takes advantage of certain aspects of our code that from a non technical perspective could seem very unfair, that is, why it isn't considered three stories and how height is measured above existing grade. He noted that if FAR was applicable this would weight in at 57% which is far too big and questioned whether this is a typical house for the neighborhood. However, he said that he is here to implement the code and the flatland design review is light, air and privacy. Based on the shadow study and existing hedge row, he is not convinced that this project causes an unreasonable intrusion to light nor an unreasonable impact on privacy speaking in respect to 129 Sunnyside and he does not see any impacts to any other property. Harris pointed out that 129 Sunnyside is a corner lot and has been developed with its rear yard as its side yard; so the No. 129 house is closer to the common property line than it would be if it were the rear property line. Harris advised that he visited the backyard of No. 129 and it's definitely hemmed in there by the shape of its own dwelling and the hedge. He said he did not recall asking for great design changes to the second floor at the last meeting and could support the project with the additional condition regarding maintenance of the landscaping.

Commissioner Sisich said he agrees with Commissioner Harris, but feels the size should have been reduced. Unreasonableness for him is when the size is due to extra space that can be double up, that is, exercise, read, and watch TV in the same room. He feels that if asking for excessive space goes beyond unreasonable needs, the finding is squishy. This house is not in the spirit of what one would do on a hillside lot, although it is not technically a hillside lot. He has no problem bunkering the house down and gaining space on the lower level, but the impact of this house on the neighbors could be reduced by decreasing the size of the top floor. No square footage has been taken away, which should be done if for nothing else than a symbolic nature for the neighbors. Shadow studies should be computer generated in the future. He said the proposal meets the rules, but he does not think it meets the spirit.

Commissioner Overberger said she is between Commissioners Harris and Sisich. She appreciates the 5' height reduction, but we were looking for a size reduction in the house and the applicant either didn't hear the Commission or chose not to do it. She does not feel a computer generated shadow study is necessary. She feels there needs to be some kind of compromise. We have these Code findings and the applicant does not have to take all our suggestions unless we say the project is unreasonable. She said she is confident that the privacy and shading issues have been met. Whether or not impact on the neighborhood has been totally met, she is struggling with as well.

Commissioner Schinner said this comes down to choices made by the applicant. He could have compromised and reduce the size by pulling the upper floor back, but instead he kept the same floor plan and went deeper. Schinner said that like Harris stated, he reluctantly has to agree that the applicant probably does meet the findings. He can't say that this project will not unreasonably impair light, air privacy. He feels that they did the right thing by pulling it back from No. 129, but because the applicant has not met the spirit of the findings especially by not making any change to the overall floor plan, he is going to conclude that the project does not meet the findings for the variance for the retaining walls. The basis for the retaining wall variance is so the dwelling can sit lower on the lot

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and have less of an impact to the neighbors. This again goes back to choice. Instead of reducing the size and height, the applicant is going to excavate which is a self imposed circumstance. Schinner added that he commented at the first meeting that he did not support pulling the house forward because of the need for excavation and overall massing and loom to neighborhood.

Overberger acknowledged that FAR is not a consideration, but inquired as to the number, to which Wight confirmed that the FAR is approximately 57%.

Wight noted that the timing is up tonight under the permit streamlining act and that a determination must be made unless the applicant agrees to a one time only, 90 day extension. The applicant requested a determination at this meeting and did not agree to the 90 day extension.

M/s Sisich, to deny the applicant's proposal as recommended for approval in the staff report because the findings cannot be made that the upper story will not unreasonably impair access to light and air of structures on neighboring properties and will not unreasonably affect privacy of neighboring properties; and to deny the variance because there do not exist special circumstances that cannot be remediated through alternative design.

Motion died for lack of a second.

Schinner suggested a motion just for the variance that would still result in a ruling on the project, to which Wight said action must be taken on both.

Overberger inquired that if the Commission made a motion on light, air and privacy and it passed, and then made a motion on the variances and it didn't pass, then the project would be denied. Wight responded that if you are able to make one of 2 findings for variance for example that is fine to deny it, and the same for design review. But the Commission cannot ignore design review and just act on the variance. The Commission has to act on both.

M/s Overberger, Harris, and passed (3ayes: Harris, Overberger, Schinner; 1noe: Sisich; Absent: Krebs, Zwick) to approve the project based on the light, air and privacy findings in the staff report (that the second story will not unreasonably impair access to light of neighboring structures per the shadow study presented with this report; the proposed second story is now 1,328 square-feet. As viewed from the street, the story poles are more in keeping with the down slope of the street; construction of the proposed residence will be required to be in compliance with all adopted building codes, thereby ensuring the health and safety of persons in or near the residence), but to deny it based on the retaining wall setback variances because there do not exist special circumstances that cannot be remediated through alternative design.

Harris said there has to be something about the property itself for a variance to be granted, not the design of a proposed building, but the fact of the matter is without the retaining walls, it could result in a higher project.

Schinner explained that the vote means the project as submitted is denied because it didn't meet all the findings, to which Wight further noted that the Commission was able to make the findings for light, air and privacy – the design review, but were not able to make the findings for variance.

The applicant said the retaining walls were only subject to variance and he was confused because he thought the review was light, air and privacy. Schinner explained there were two bases to obtain approval: one is for design review and one is for variance. The applicant asked if the retaining walls are withdrawn after the vote has been taken, to which Schinner said you can't take this piece meal. If you go back and make a change you are not able to do it.

M/s Harris, Overberger, and passed (4:0) to make the previous vote without prejudice.

Audience was advised of the ten-day appeal period.

4. **V-0735 – Travis and Kira Duro, 241 Sequoia Drive, APN 006-117-01**, Setback Variances to: 1) construct a ± 439 square foot addition within 6'-1" of the rear property line (Code: 20'); and 2) construct a retaining wall up to 5' in height with a 4' wood fence on top within 0' of the front and street side property lines (Code 20' and 12'); Parking Variance to allow two parking spaces when three are required, and Lot Coverage Variance to permit ± 37.4 FAR (Code maximum: 35%) located within the R-1 zoning district (above 150' msl). Located within the R-1 zoning district (above 150' msl). (staff person: Chambers)

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Assistant Planner Barbara Chambers presented the staff report noting that the property owner of 49 Grove Hill was still opposed to the project, and that letters of support have increased since the last staff report was presented.

Commissioner Harris asked for the FAR and Chambers replied 37.3%, which is 2% over.

Laura Kehrlein, Architect, noted that in order to reduce the height of the shed, a concrete slab would need to be placed on the roof and the roof shape changed to flat with minimal slope for water runoff. Kehrlein noted that special circumstances exist, that the lot is unique and that the home is currently just over 1,000 feet which is quite small.

Applicant Travis Duro submitted pictures of the property and the various parking alternatives.

Harris asked the applicant if they had considered an arbor or trellis to cover the off street parking and the applicant noted that the structure would have to be large to provide that type of screening.

Commissioner Sisich asked if the Public Works Department has commented on the application and Chambers noted that Public Works Director Rabi Elias would work with the applicants to do a gradual slope to the driveway if the parking would be accessed off of Grove Hill as proposed by staff.

Chambers also noted that in the required findings for approval on page 5 of the staff report, 3'-6" should be 6'-1".

Commissioner Overberger noted that she went and looked at the property again and that she actually thinks the property has a lot of leeway if the applicant wants to use it. Overberger also stated that the applicant is asking for several variances and that she has no problem granting some given the shape of the property. Finally, Overberger noted that none of the presented parking alternatives work.

Sisich noted that he is okay with the setback variance for the house.

Harris stated that the project is unreasonable and that a lot of variances are being requested. Harris also stated that the narrow hillside roads have very limited parking and that there are ways to work the parking, maybe with new landscaping, a trellis or uncovered parking. Harris stated that he could support all variances and an alternative for the parking.

Schinner noted that he could support all variances including parking, but would not like to see the trees go. Schinner stated that the project is strongly supported by the neighborhood, the house is very modest and the improvements are to the livability of the house. Schinner stated that the Commission has addressed concerns voiced at the last meeting and that he is satisfied that the variance is appropriate here. Schinner suggested that findings for parking include avoiding the removal of the two Oak trees.

M/s Schinner/Overberger (passed 5-1 Harris to vote No), to approve the project based on the special circumstances are the location of the mature trees that would have to be removed to provide adequate parking and not allowing the FAR Variance would create a hardship and they would not be able to have the improvements if they were not granted and many of the neighbors have spoken in support and the addition will add to the neighborhood aesthetics.

The audience was advised of the ten (10) day appeal period to the Town Council.

5. **V-0737 - Doug and Jill McIntosh, 15 Valley Road, APN 005-121-03**, Setback Variance to demolish the existing one car garage and reconstruct a new one car garage in the same footprint but raise it $\pm 2'$, within 3'-2" of the side and 18' of the front property line (Code: 8' and 20'), located within the R-1 zoning district. (staff person: Chambers)

Assistant Planner Barbara Chambers presented the staff report and noted that she would like to see the garage shifted back to meet setback requirements.

Bill O'Callaghan, Designer, noted that the family of five has decided to add onto the south side of the house and repair and replace the garage as it leaks and needs replacing. Building has to be demolished for drainage and structural reasons and that the project has the support of the adjacent neighbor.

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Applicant Doug McIntosh noted that he and his family has been living in the home for four years and that the current size works fine. Applicant noted that the garage floods in the winter time and that the washer and dryer will be moved indoors. McIntosh noted that he's lived in the home for 4 years and that the current size of the home is fine.

In response to Commissioner Schinner's inquiry of whether anything could be done in terms of flood rules, Chambers noted the property is outside of the flood zone.

Commissioner Sisich asked about side yard setbacks and Chambers noted that she could support a 5 foot setback instead of the requested 8 foot setback.

Harris asked about the current distance between the house and the garage and O'Callaghan noted that the distance is 4'-3". In response to Harris' inquiry of why the garage couldn't set back 2 feet; O'Callaghan noted that there was no hard reason. Harris suggested moving the garage to comply with the front yard setback.

Sisich stated that he cannot support the current request, but will support a 5 foot set back if Chambers does. Sisich suggested continuing the project for redesign.

Chambers suggested that the applicant meet the 20-foot setback and maintain at least a 5 foot side yard setback.

M/s Sisich/Overberger to continue the application to the meeting of December 3rd in order for the applicant to make the changes requested by the Commission.

6. **DR - 0738 - Ken Mayer, 19 Knoll Road, APN 006-114-04, Amendment to Hillside Design Approval to remove the conditions related to: exterior materials and colors; and recordation of a deed restriction for the exterior materials and colors, located within the R-1 zoning district (above 150' msl). (staff person: Wight)**

Building and Planning Director Lisa Wight presented the staff report noting that she had received an email from the applicant suggesting minor changes after reviewing the staff report.

Commissioner Sisich informed the applicant that should he want to change the color he would not have to come before the Planning Commission, as long as the chosen color is in the range being recommended by staff.

In response to the applicant's inquiry of why his property needs a deed restriction, Sisich noted that the restriction is more about letting people know what they can't do.

Commissioner Harris noted that the only restriction on the property will be whatever language is approved at the meeting and asked the applicant if he'd read the staff report and is comfortable with the range of materials. Wight asked the reference samples be noted for the record.

Applicant also noted that his original project approval will expire, and asked about a one-time extension. Wight responded that a one-time only, one year extension was already granted and the only way to get it extended further is to bring the entire project back as a new application.

Schinner noted that he is opposed to deed restrictions as it reduces marketability.

M/s Overberger/Sisich and passed (3-1Sisich) to move the staff report as amended and remove the deed restriction requirement.

Harris noted that he supported removal of the deed restriction only because it is located in a swale on the hillside and surrounded by two streets with no visibility.

Audience was advised of the 10-day appeal period.

E. WORKSHOP

Continued to December 3, 2007.

F. ITEMS FROM PLANNING COMMISSION

G. ITEMS FROM STAFF

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Wight noted that the appeal of 48 Raymond will be heard by the Council on November 27, 2007.

Wight also reported that the Town Council would discuss FAR and Lot Coverage in the proposed Zoning Ordinance amendments at a public hearing on Tuesday, November 27, 2007.

Wight also reported that the Fire Department brought forth a map to the Town Council of the Urban Wildland Interface Code and the Ordinance is scheduled for adoption by the Town Council on November 27, 2007. Wight plans to have the Fire Chief make a presentation at the Planning Commission's meeting in January 2008.

ADJOURNMENT

The meeting was adjourned at 11:15 pm to the next meeting of Monday, December 3, 2007.

Respectfully submitted,

La Shaun Williams