

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF OCTOBER 6, 2008**

CALL TO ORDER

Commissioners present: Brown, Harris, Krebs, Overberger, Schinner, Sisich, Zwick
Commissioners absent: None

OPEN TIME FOR PUBLIC EXPRESSION

There were no comments received.

CONTINUED ITEMS

None

PUBLIC HEARING ITEMS

CONSENT AGENDA

1. Minutes – September 15, 2008

M/s Harris, Brown and passed unanimously, approval of the minutes as written.

REGULAR AGENDA

1. DR-0821 – Conrad and Pascale Gregory, 4 Willow Way, APN 005-072-13, Flatland Design Review to add a ±1,065 square foot 2nd story addition up to maximum height of ±23.7', located within the R-1 zoning district. (Staff person: Chambers).

Assistant Planner Chambers presented the staff report, acknowledging that prior to the set of plans before the Commission at this meeting, at staff's suggestion there were modifications to address privacy concerns of the abutting neighbors, including raising second story window sill heights and lowering the roof. Chambers also noted a correction to the staff report that the second story plate height is 8', not 9'.

In response to Zwick's question about the adopted, but not yet effective FAR Ordinance, Chambers noted it would exceed the 160 square feet maximum floor area.

Conrad Gregory, applicant, said they desire a larger house and want to stay in this neighborhood. He acknowledged that they met with the neighbor at 56 Butterfield, who asked that their kitchen window not be blocked. They had their designer build to not block the neighbor's kitchen window and to be within the 43% FAR, which is what the Marin IJ had reported the Town Council had adopted, but in fact, had not. He met with neighbors regarding their concerns that regarded privacy, light, visibility. No. 54 said the addition was too large and out of character with the neighborhood and No. 56 felt the front of addition was too far forward. Based on the concerns, they moved the addition back 4' earlier this summer and raised the windows facing No. 54, and developed landscape screening for all neighbors. Once they submitted, there were neighbor meetings, Town staff meetings with them and the neighbors. They received comments from staff regarding potential impacts to Nos. 54 and 56 Butterfield and 6 Willow regarding size and privacy. They revised their plans again a few weeks ago to remove one gable end of the roof and replaced it with a hip roof to reduce the height 3' and all the roof slopes were changed to 3:12 for a height reduction of 14". Chimney height was lowered 3'; laundry room and 3 windows facing Nos. 54 and 56 raised to 5.5' above finished floor. The master bath had obscure glass added to the lower half but its sill has not been raised to 5.5'. In addition the master bedroom windows that face 6 Willow have also been raised to 5.5'.

Jessica Crabtree, Butterfield Road, discussed the light impact to her kitchen and sliding glass door. She stated that when they met with the applicant there were no concessions made. She does not agree with the shadow study because it only rounds to the hour, does not address each hour and based on her calculations using data from the U. S. Naval Observatory, it is inaccurate in terms of when the sun clears the oak trees. They will lose sun up to 10:40 a.m. in the winter in their kitchen and living room. The oak tree on 6 Willow Way does not shadow their home or

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block their light because the sun is too high by the time it is behind the tree. In their home they have never seen that tree cast a shadow. The tree at 8 Willow Way does not block the light either. These are deciduous trees, so it is not a fair analysis to say they are full trees. She questioned the Commission's definition of "unreasonable" in terms of light. She uses her property in the early morning and late afternoon. Light impact should be considered before 11 a.m. and after 3 p.m. The addition takes up their entire window, which means they would not see the sky from their window or door. In response to Commissioner Harris' question, she said there's a need to compromise and the bulk of the addition should be on the first floor with one room and one bath on the second floor. In response to Commissioner Brown's question, she said she is home in the early morning and late afternoon in the winter before and after it is dark and the impact to her yard is in November. She acknowledged there is not currently a shadow from the story poles on her property.

Robert Mathews, The Alameda, and Tim Navone, Foss Avenue, said they were in similar situations a few years ago when their neighbors proposed an addition and they support the neighbors opposing the project. David Nash, Fairfax, suggested there must be another property with a house that meets their needs.

William Crabtree, Butterfield Road, said there have been compromises, but light would not be an issue if the house were not so large. He said it is ridiculous that it has been suggested in the staff report that they also could install screening plants on their property.

Lisa Wagner, Butterfield Road, presented a chart of neighboring house sizes noting the average is 1,600+ square feet, which is the size of the existing house at No. 4 Willow, and if the addition is approved it will be the largest in the neighborhood. She also questioned the validity of the shadow study. She discussed light to her windows, noting that 56 Butterfield shadows her one corner and the proposed addition will take morning sunlight from a bedroom based on her neighbor's calculations. The sill heights on the windows that would look directly into her yard have been raised to 5.5' and some adults are taller than that. She feels that the size of the addition would be an intrusion to her property whether someone is looking at her from a window or not. This project will impact the property value of Nos. 54 and 56 Butterfield and 6 Willow. The proposed landscaping will not grow to a screening height even after 5 years.

Nancy Nelson, Willow Way, said the addition would negatively affect her property and her life. Her lot is 7' lower than the applicant's such that a two story addition will loom over her house. She said the shadow study is wrong. At 5:30 p.m. on September 21st there was light streaming into her house warming and lighting the room. Just because it is legal does not make it right. She does not oppose an addition, but does oppose this massive size. If approved, she asks that there be an agreement on landscaping and large plants are necessary so she does not have to wait for their height, and that the landscaping be installed at the beginning of construction so there is more growing time.

Kathryn Gant Bradley, Durham Road, said the neighbors need to be listened to. When windows are raised, they can be opened and there is a noise issue. She is concerned about the accuracy of the shadow study, the close proximity of houses to each other, the need for sun to warm us, and screening placed on the neighbors' property. There should also be a model of the house and landscaping.

Conrad Gregory said he contacted the 3 neighbors to tell them new plans were available so there is no fault with the Planning staff as suggested. Regarding the mega home comment, within a quarter mile of his house there are homes with varying styles and sizes. He recalls a specific conversation with the owner of 56 Butterfield that new plans were submitted with the addition pulled back 4'. An appraiser's letter is in the file who reviewed the value of the neighboring homes and there should be no negative impact on the neighborhood. He told the owner of No. 6 Willow that he could sit down and hammer out a landscaping plan that they could both live with. He has compromised and is happy with his project.

In response to Commissioners Krebs and Zwick, Designer Bill O'Callaghan indicated the location of the neighboring windows on the shadow study and said he hired Designer Tom Levine to prepare the shadow study so he would be coming from a neutral position. He trusts Levine's work and feels that these shadow studies are usually extreme.

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Zwick noted that shadow studies do not take into account the different elevations of properties and buildings.

Chair Schinner confirmed the upper plate height is proposed at 8' and could be lower, to which O'Callaghan advised they wanted to keep the 9' plate height on the lower floor to allow light coming in, which is somewhat restricted because of the tall fence between his property and the Butterfield properties. O'Callaghan noted No. 56 is 32 feet from the addition and No. 54 is 41 feet from the addition. The house is situated between the three properties and no matter what there will always be some shadow issue to one of the properties. In response to Schinner's questions about 6 Willow's windows facing the proposed addition, the neighbor advised they are bedroom windows and O'Callaghan said the proposed master bath is across from these windows.

Zwick noted the interesting dilemma is that the FAR ordinance has passed, but is not yet effective. The house design is nice, but the neighbors' pleas are to not block their views. The shadows and the light are a stickier situation because we are not sure what the shadow study is actually showing.

Commissioner Sisich said the reality is that the definition of "unreasonable" is different for everyone. What is underlying all of this is the house size. He doesn't believe that this is too big of a house and there is no prohibition on a two story house. It meets the Code and there are no variance requests. In fact, the Butterfield neighbors have more space from the addition than most neighbors with a higher elevation and a greater setback than normal. It does not block any substantial views and there is no view ordinance. It is not going to be a severe hardship even if there will be a bit of shadow at different times. When one of those houses adds a second story they will have a greater impact on 4 Willow. 6 Willow is more impacted and the bedroom window is completely obscured by the wall, vegetation and existing house. The only impact to 6 Willow is there will be a larger mass as viewed from the front yard and that is a compromise. We have to stand on the principle that any of these folks can do this. We do trust what is presented to us and it would be equally unfair to accept a neighbor's data. We could have the applicant do another shadow study and have the Town select the preparer. He would like to continue it for that but he does not have an issue with this project proposal.

Krebs said the design will be a good addition to the neighborhood in general. The concern is the bulk of the second floor and the neighbors' objections due to impact on lack of sun, privacy, and light. He has less of a concern about privacy impacts because it is not realistic that all houses will be one story and privacy will be impacted in these neighborhoods. Any second story will have some impairment. They have done a reasonable job to keep the windows higher and he realizes a 6' person could look down, but we have to be reasonable. It might be helpful to have another person do another shadow study and present it to the neighbors before the next hearing. He thinks the applicant has done a good job working with the neighbors. There are currently shadows on 6 Willow and there will not be a lot of increase from the second story. Regarding landscaping, he would like to have a proposal from the applicant. The addition is not out of scale, and he could see a slight reduction, but that would be more a bulk issue than light, but he is not sure that a size reduction would have a favorable impact on light or privacy.

Overberger agreed with the others, but what is bothering her is the concept of the reasonableness and unreasonable impact. The neighbors feel they are being reasonable and the applicants feel they are being reasonable. All seem dug in and you are going to have to live together so you need to do something to be a neighborhood. We could do shadow studies until we are blue in the face. In the winter you will not have light between 8 and 10 and if it was your other neighbor, it would be the same. The first guy is the bad guy. The FAR Ordinance is not yet in effect, and it sounds like the applicant made an attempt to comply with the proposed FAR that was discussed at the time of the application submittal. However, reducing 160 square feet probably wouldn't change anything except that you would get under the new FAR and the bulk would be reduced somewhat, but it would probably have little or no impact. She does not support another shadow study. This house could be 30' high and it is only 23', 7', lower than what it could be.

Harris agreed with Overberger but would be in favor of continuing this to get another shadow study because it is important for the neighborhood. He got the "digging in" by reading the letters and did not need to see it live tonight. This is a tough site, tough topography, abutted by 4 properties, and the addition has been pulled in and the new FAR Ordinance is not retroactive. He noted that 4 Willow already looms over 6 Willow, and this project is only proposed at a

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height of 23', not the permitted 30'. They have also lowered the pitch height and have made all the concessions that are typically made to alleviate any light, air and privacy concerns. There has been a lot of compromise. The bedroom sill heights have been raised to 5'-6", which is a big concession for the neighbors' privacy. Reducing it by 160 square feet will not change the light and privacy significantly. This will change the status quo in the neighborhood, which isn't easy, but they are entitled to add a second story. 56 Butterfield's situation is exacerbated by their own lot being on a corner because their back yard is the applicant's side yard. Hopefully there is some way that things can be pulled back and landscaped. Look at what is reasonableness – there is a shadow for a small time during one quarter of the year. The house is larger than he would like it to be and he voted for an even smaller FAR for the new ordinance, but he doesn't want it to be made smaller just to be smaller, but only if it has an appreciable difference on light, air and privacy. He'd like the shadow study to include the windows of the neighboring properties facing the project and proposed landscaping. The applicant is changing the status quo which is why we will put conditions on it to ameliorate. If the neighbors don't like how the conditions turn out, they do have the power to be proactive and plant additional landscaping on their own properties.

Brown supports most of the viewpoints of fellow Commissioners. The applicants have compromised in setbacks, sill heights and placement of the second story in relation to adjacent properties. It is unfortunate that No. 6 has a bedroom within 3' of the property line, which dictates where the shadows are going to hit more than the addition. He supports a shadow study that picks next week as the day and place and suggests placing plywood on the poles and observe the shadows and see if it is consistent with the shadow study we have.

Overberger said the question to ask is whether another shadow study will change anything with this addition. Brown suggested it will take away doubt.

Schinner concurs with Harris. The only impact he saw was on No. 6. From the Butterfield side, since they are 4' higher, he doesn't see a light, air or privacy impact, but No. 6 the house had a sense of a looming effect. The applicant has somewhat wedding-caked the second story back, and maybe that area could be taken back more because when a neighbor who is higher goes up there can be an impact on privacy.

Zwick agreed and hopes when they return with a revamped shadow study, meet with the neighbor at 6 Willow to work out a landscape plan and it is shown that to the Commission the neighbor would feel her needs were taken into consideration as well. Overberger suggested myosporum as a screening because it is shaped like a tree, it grows 2' a year, and can be purchased in 8 or 10 gallon containers.

M/s Harris, Zwick, to continue the application to October 20, 2008, to allow the applicants time to have a new shadow study taking into account the different elevations of 56 and 54 Butterfield and 6 Willow Way and the shadow study shall include the windows on those 3 neighboring dwellings facing the project and any proposed landscaping shall also be shown. When this new information is available, the applicant shall use reasonable efforts to contact these 3 neighbors to go over the new shadow study and landscape plan with them and work out whatever needs to be worked out with neighbors. A plant to consider would be myosporum because it is fast growing.

The neighbor at 6 Willow Way acknowledged she will be out of town from the end of October to the beginning of November and if there is a continuance to please take that into account.

2. **SR-0801 – Bank of America, 401 San Anselmo Avenue, APN-007-251-22**, sign review of 2 wall signs with halo lighting totaling 82+ square feet (1 on south facing wall and 1 on east facing wall) to replace 3 wall signs with no illumination totaling 76.5 square feet (1 on south facing wall and 2 on east facing wall) on property located within the C-2 zoning district. (staff person: Wight)

Planning and Building Director Wight presented the staff report, noting that this sign size is permitted but because they are applying for an illuminated sign, it must be reviewed by the Commission. Staff is not in support of the project as proposed.

Harris asked if the halo lighting was approved or something similar to what Wells Fargo has, does the 10:00 p.m. need to be enforced.

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Overberger felt the lights should be turned off at 10 p.m. on the Pine Street side.

Wight noted if the Commission approves the application, a condition should be added that the sign shall be attached to the building and the repairs made to the existing sign holes to the satisfaction of the Planning and Building Director.

Brown said you can reduce the glow of illumination to reduce the halo, thereby cutting out some of the light and the closer it is to the building, the less the side light glows. The plans are showing neon on the left hand side of the drawing, not a LED design. No transformer is needed with LED; it would use a power pack.

In response to Wight, Zwick said the illumination could also be reduced.

Wight said that originally they wanted a red band across the entire top of the building, and staff suggested they come to the site and view the building. The band was then removed.

Wally Ruden, representing Sign Productions for Bank of America, said they have a standard package but it does not work in some communities. The scale of the logo has been changed. Regarding the lighting, halo lighting is subtle, capital B has 3 watts and A has 3 watts; they could be put closer to the wall and it could be placed on a dimmer. This discussion was approved in San Rafael, Corte Madera, and Pacific Grove, of which they approved halo lighting. He would be amenable to outside lighting that would provide a back splash. The signs are becoming smaller than what currently exists.

Wight noted that the signage in San Rafael is on Fourth Street and Fifth Avenue, and in Corte Madera facing the Town Center.

Zwick said he does not mind the halo lighting but would like to have dimmers, but the scale of the signs are fine.

Overberger asked if one sign could be lit and one not lit. The applicant said that is possible.

In response to Harris, the applicant said that it would be possible to turn the lights off at 10:00 p.m. if this is made a condition.

Doug Kelly, Sunview, said he was on the Sign Committee and they were in general opposed to neon signs. There were concerns with U.S. Bank and Wells Fargo because of their lit signage. He would rather have minimal lighting and would not want signage lit on Pine Street past 10:00 p.m.

Katherine Gant Bradley, Durham, said the integrity of the building is first and foremost and supports Mr. Kelley's comments.

Wight read the Ordinance findings with regard to restrictions on lighting.

Harris asked if hook around lighting has less illumination than halo lighting.

Overberger said the ATMs require lighting for safety.

The applicant said they will patch and paint the wall and will definitely take care of the building.

M/s Overberger/Zwick, and passed (5-2 Noes: Harris/Brown), the approval does not include the neon diagram on the left side of sheets 1 and 2; b) the sign on the south facing wall on Pine Street shall not have illumination; and c) the sign on the east facing wall on San Anselmo Avenue is permitted to have halo illumination with the brightness to be addressed as follows: i) an adjustable dimmer with the eventual brightness to be determined by the Planning and Building Director. The intent is to not cause unreasonable glare or annoyance to passersby or neighbors; ii) the sign to be within 1" or less of the building wall; and iii) a timer shall be placed in the sign such that the illumination is off by 10 p.m. daily; and both the south facing and east facing walls shall be returned to a state of perfection, in terms of patching and painting to match

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the material and color to the walls where the old signs are removed, and this shall be done to the satisfaction of the Planning and Building Director.

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

ITEMS FROM PLANNING COMMISSION

Zwick said staff has agreed to have a meeting with the Commission about sustainability. Overberger provided possible websites that have information on sustainability that will help with a new Ordinance.

ITEMS FROM STAFF

Wight said that the Town Council supported the Planning Commission's decision to deny the 114 Alder appeal.

Wight said that the building permit has been issued for 10 Foss. The neighbors are concerned about the cutting and the health of the oak tree but the engineer and arborist do not feel there are valid issues and the project does not require shoring.

Wight stated the Council approved the second reading of the FAR Ordinance. The Ordinance will be effective October 23rd.

ADJOURNMENT TO THE MEETING OF MONDAY, OCTOBER 20, 2008

The meeting was adjourned at 9:45 p.m.

**BARBARA CHAMBERS
ASSISTANT PLANNER**