

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF JANUARY 11, 2010**

Commissioners' Present: Brown, Harris, Krebs, Overberger, Sisich and Zwick
Commissioners' absent: Schinner

Chair Brown introduced Diane Henderson, Interim Planning Director. Diane Henderson provided a background of her professional career.

OPEN TIME FOR PUBLIC EXPRESSION

No one spoke.

CONSENT AGENDA

1. Minutes of December 7, 2009

M/s Krebs/Harris, to approve minutes with minor modifications, including the name correction from Bob Brown to Mike Brown as Chair of the Commission for 2010.

REGULAR AGENDA

1. Preliminary Draft Housing Element

Jeff Baird provided an overview of the changes, noting that the document reflects the comments that have been received from the community, workshops, the subcommittee and many others, including the Planning Commission during several meetings. He explained that there will be other meetings to discuss the Housing Element, both at the Planning Commission, the Council and HCD.

Lisa Bell, Lincoln Park, asked where the homeless shelter is proposed to be located. Baird explained there is a program that talks about this however there is no specific location at this time. The general location proposed would be in the limited commercial area on Sir Francis Drake and the commercial area on Greenfield.

Harris said State law requires certain zones be specified in the Element. Baird stated page 36 indicates the locations. This will have to be implemented through the zoning ordinance.

Bell questioned if there is still a proposal for Isabel Cook School. She addressed page 82 regarding the proposed sites for higher density housing, saying it would be 30% close to the Lincoln Park neighborhood. It could reduce the value of those residents. She would like to have the homeless shelter moved to other sites.

Regarding the affordable housing overlay zone, she is not sure the members of the community would understand it. She believes there could be problems and would like that rescinded.

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Baird said they are sites that are currently zoned 20 units per acre and therefore no zoning change will be necessary.

Bell asked if there is the potential for high density in the R-1 zone. Baird responded that an overlay zone is set up in different ways.

Brown said the Housing Element is not a zoning ordinance, it is a guideline only. There will be ample opportunity to discuss the details at a later date.

Bell said that her calculations come up to 30%, not 15% on page 89.

Michael Rex, San Anselmo, said the Errata reflects most of what was discussed at the last meeting. However, there are five additional items that he would like considered. The items are: to encourage PD's or PUD's that provide a boarder community benefit/ provide live-work housing; increased density in residential zones adjacent to commercial zoning districts; allow increasing density standards; and provide affordable housing overlay districts.

Harris asked if any of the items are precluded in the draft Housing Element. Rex responded that none are precluded but it is fundamental to allow density bonuses and affordable housing overlay districts.

Whitney Merchant, Greenbelt Alliance and resident, is very supportive of the draft Element but questioned the in-lieu fees for residential and commercial. Baird stated there has been a recent Court decision that threw out in-lieu fees and added both in-lieu and impact fees.

Zwick stated he is comfortable going with the Errata tonight and when it comes back we can further discuss Michael Rex's ideas.

Krebs said he would go with the Errata and suggests the Town Council look at Mr. Rex's five items at that time.

Sisich concurs with his fellow Commissioners.

Harris appreciated the input from people like Mr. Rex but would support the Errata without further comments.

Overberger had noting further to add.

Brown said there will be ample time for future comments, both at the Planning Commission and the Council.

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M/s Zwick/Krebs, to approve the Errata sheet and forward the Draft Housing Element to the Town Council for submission to HCD and for the Town Council to look at Michael Rex's five suggestions. Motion carried (5-1 Noes: Harris)

Harris said he voted no because the Housing Element enables all the items on Mr. Rex's sheet.

2. **V-1001/DR-1001 – Erick and Kathleen Cutter, 28 Durham Road, APN-005-202-018, Sideyard Setback Variance and flatland Design Review for a 526 ± square foot addition to be 4 feet from the northwest side property line (Code: 8 feet), located in the R-1 Zoning District below 150 msl elevation. (Staff person: Boyle)**

Senior Planner Boyle presented the staff report, noting that staff is unable to support the setback variance or design review. A letter has been received from the owner to the north, who is in support of the project.

In response to Overberger, Boyle said FAR has not been calculated because the project application was submitted prior to the Town's adoption of Flatland FAR on November 3, 2009.

In response to Brown, Boyle stated the applicants have been aware that staff would not be able to make the findings for the variance.

Erick Cutter, applicant, agreed that the characteristics of the lot are not special and unique however, they want to stay away from the retaining wall and preserve the lawn area for their children. This will also reduce the expense by not having to move the retaining wall and allow them to use the existing door. Finally, keeping the extension shorter will have less of an impact to light and privacy for the neighbors on the left at 30 Durham. There are a number of houses on Durham that are located within 4 to 5 feet of the side yard and their request is not out of character with the neighborhood. The current fence that is 5' from their house is located slightly over their property line but was always assumed to be the property line.

Brown said the fence is not marked on the plans and asked about the survey. Kathleen Cutter, applicant, stated they had a property dispute and a survey was done. It was thought the setback was 5 feet, due to the location of the fence but it surveyed out to 4.5'.

Krebs suggested moving the portion of the addition that is less than 8' to the rear.

Bill Pashelinsky, architect, said the door centers on the bathroom and if the addition is pushed back, the design would radically change. The lot slopes up steeply and there would be a lot of waterproofing and more expense. There is a certain logic to the design. The hardship is that the existing house is within 4.5', and built to previous codes.

Dave Hannaford, 30 Durham, would prefer the current project rather than moving the addition further to the rear.

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Kathy Schekkee, Pasadena, shares the back fence, and is in support of the project as proposed.

Katherine Gant Bradley, Durham, thought there was going to be a different roof plan and has concerns about the variance and the design. The story poles show a big impact to her. The properties get higher as you climb up Durham and her lot and house is lower than the applicant's property. She is concerned about the side yard variance and precedent. She is also concerned about a deck that could be built on the roof at a future date. She brought up the survey issue and the applicants have gained three feet at the rear of their property.

John Gant Bradley, Durham, wants to work with the neighbors to expand their house, however, the current plan has not been properly discussed. It was his understanding that the roof would be different. He does not want to drive up the cost for the applicants and would be willing to work with them on a solution. As his mother previously stated, due to the increase in height as you go up Durham, the applicant's house looms over his house because he is lower on the street. He is concerned that in the future a second story would be built, which would further impact him. He was also concerned about privacy due to the windows that face him.

Elizabeth Mulka, 52 Durham, said the height is less than what is permitted. She is in support of the project, noting that the addition is following the line of the existing house.

Ed Greenfield, 19 Durham, said every single house on the uphill side of Durham was built 4.5' to the side property line because the houses were sited wrong.

Romero, neighbor, said the special circumstances are that all the houses were built at 4.5', when it was assumed it should have been 5'.

Albert Mulka, 52 Durham, said he had the same problem, thinking that they had a 5' setback but after the survey they had 4.5' setback. This project should be approved.

Kathleen Cutter explained they have done several renditions since 2005. The top roof will be a flat roof due to cost and to satisfy the uphill neighbor. They are well within their rights for height. They will replace any vegetation that provides privacy. They are not proposing another variance for another story.

Harris asked if a special circumstance would be the location of the house. Deputy Town Attorney Hurd said he did not think so. The applicant agrees there are no special circumstances due to the configuration of the lot. Therefore, it sounds difficult to articulate findings that say the lot is so unique that there is no other place to put the addition.

Zwick brought up the question of a lot line adjustment.

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Brown asked the Gant Bradleys what kind of roof would be acceptable. John Gant Bradley responded that he would suggest lowering the entire roof.

Harris stated the Commission has to make legal findings although he understands the project has a lot of common sense. Unfortunately, he is unable to make the findings to support the variance. He suggests moving the addition a few feet back so the addition would meet the side setbacks.

Sisich said he supports the staff report, denying the variance.

Overberger said that adjusting lot line is complicated. Failing a complicated approach, they need to relook at the project and modify the project to meet the setbacks. She supports the staff report.

Krebs supports the modest remodel and notes that there is a lot of support from the neighbors. However, there is a way to design the project without requiring a variance. He sees no special circumstances to support a variance.

Zwick said the lot next door is somewhat over 7,500 square feet. He would consider having a lot line adjustment. Boyle said if there is a lot line adjustment, it would require a new project. Henderson said that in determining a lot line adjustment there is also a consideration where the house is located on the properties.

Zwick asked if they were able to do a lot line adjustment, and if the new lot line is created, would the 5' setback be considered for a setback design review, or would it still require a variance because it is newly created. Henderson responded that the house would have to be legally built at the 5' to 8' setback as stated in the Code; therefore, the house would require an 8' setback even with the lot line adjustment.

Brown said they might want to get another survey to verify the boundaries.

Overberger did not want any action to be punitive.

Boyle said the application has two parts, design review and variance. The project could be denied or continued. However, a decision must be made by March 1st.

The applicants asked to step outside to discuss their options.

Brown placed the item on hold until the completion of the next item to allow the applicant's time to discuss their options.

3. **V-1002/DR-1002 – Dixon Long, 123 Sturdivant Avenue, APN 006-231-32, Frontyard Setback Variance and Hillside Design Review for a 550± square foot parking deck with**

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a 194 square foot mechanical equipment area underneath to encroach approximately 2 feet into the public right-of-way (Code: 20 feet from front property line), located in the r-1 Zoning District above 150' msl elevation. (Staff person: Boyle)

Krebs recused himself because he has done legal work for the applicant in the past.

The Commission waived the reading of the staff report.

Overberger asked the reason the parking deck was not requested during the previous application. Boyle deferred to the architect.

Brown asked why staff did not ask for a noise study during design review. Boyle said he could have asked them to do so for the air condition units but stated it has been added as a condition of approval that the units meet the Municipal Code Noise Ordinance prior to the issuance of a building permit.

Harris asked what would happen if the air conditioning units exceed the noise study. Boyle said they would not receive the building permit if the noise study fails. Henderson added it is not reasonable to have them assume the cost of the study if the project is denied.

Colon Lind, applicant, said they thought they had a small remodel but they had a lot of work do to that they did not expect. They were going to do the parking deck farther in the future but decided to do it now.

Ms. Lind said the parking deck will also allow for a better turn around for emergency vehicles. Boyle said the Public Works Director will also require a revocable encroachment permit.

Harris asked why there is a requirement to build on public right-a-way. Mr. Lind stated they are encroaching 2' less than the previous structure and the parking deck is on grade. Because of the steep slope, the deck will have to be cantilevered. In addition the parking deck and garage will no longer line up if it is moved back.

Ms. Lind added that although it is public land, it has been abandoned and really not used by the public.

Overberger stated that the revocable encroachment permit would allow the Town to have the parking deck abated in the event the Town wanted the right-of-way back.

Zwick suggested moving the deck back 2' so it won't be on Town land.

Harris concurred with Zwick.

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Sisich was able to support the staff report.

Lind said the right- a-way is already abandoned and it is only used by them.

Tom Hendricks, architect, said Public Works would support a revocable encroachment permit.

Brown said he supports the staff report, particularly because of the 45% slope. He was more concerned about the noise level from the air conditioning units. He would like it to conform to the night time decibel levels.

M/s Overberger/Sisich, to support the staff report, adding the condition that a revocable encroachment permit be notarized and recorded for the parking deck in the public right-of-way prior to issuance of the building permit. Motion carried (4-1 No: Harris).

The audience was advised of the ten day appeal period.

Krebs returned to the dais.

28 Durham (reconvened)

Erick and Kathleen Cutter stated they would like a continuance to consider alternatives. Henderson suggested continuing to a date uncertain with a 90 day extension from March 1st.

The applicants were in agreement to the 90 day extension of the Permit Streamlining Act.

M/s Zwick/Overberger, to continue the application to a date uncertain, with the 90 day extension. All ayes.

ITEMS FROM THE PLANNING COMMISSION

Overberger would like to see a calendar on-line. Henderson said she will discuss this at the at the upcoming staff meeting when they will discuss the Town's web site.

Overberger asked if there is an implementation plan for the Green Building Ordinance. Henderson said she is not sure where San Anselmo is, but she agrees, there should be a timeline.

Krebs suggested staff come back with a timeline with ideas at the February 1st meeting.

ITEMS FROM STAFF

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The Commission was in agreement with setting a special meeting on February 22nd, if there are applicants.

Boyle announced there will be a presentation at the Town Council by Bob Brown, who will provide an overview of the proposed Green Building Ordinance.

ADJOURNMENT

The meeting was adjourned at 9:20 p.m.

Barbara Chambers