

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION STAFF REPORT**

**For the meeting June 16, 2014**

**Agenda Item D-4**

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**Project Address:**

130 Crescent Road  
San Anselmo, CA 94960  
APN-007-221-32

**Case No.**

DR-1405, VAR-1401, GP-1402

**Owner**

Greg and Alyssa Harper  
407 Manzanita Avenue  
Corte Madera, CA 94925

**Applicant**

Dave Jochum  
14 Van Tassel Court  
San Anselmo, CA 94960

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**Requests**

Design review for a 638 square foot addition to the existing attic, a rear setback variance to encroach 9 feet 11 inches into the rear setback (Code: 20 feet), and an after-the-fact grading permit to excavate 250 cubic yards and fill 190 cubic yards of soil at 130 Crescent Road. The project site is located in the R-1 zoning district.

**Recommendation**

Staff recommends that the Planning Commission hold the public hearing and continue this matter to allow the applicant to revise the project consistent with the required setbacks.

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**I. PROJECT SUMMARY**

**Environmental Determination**

Categorically Exempt: Section 15303(a) – New Construction or the Conversion of Small Structures; one single-family residence or a second dwelling unit in a residential zone.

**Authority**

San Anselmo Municipal Code; Title 10, Article 15 - Design Review, Article 14 – Variance and Title 9, Chapter 18 - Excavation, Grading and Erosion Control.

## Timing

A determination must be made within 60 days of the project being deemed complete which is August 6, 2014.

### I. STAFF ANALYSIS

#### Existing and Proposed Conditions

	Existing	Proposed	Code
<b>Lot Size (sq. ft.)</b>	10,249	No change	Minimum 7,500
<b>Floor Area (sq. ft.)</b>	<b>Total</b> 3,154	<b>Total</b> 3,368	3,587
	Entry Level 1,878	Entry Level 1,881	
	Upper Level 0	Upper Level 638	
	Basement 638	Basement 849	
	Attic 638		
<b>Floor Area Ratio sq. ft. (%)</b>	3,154 (30.7%)	3,368 (32.8%)	3,587 (35%)
<b>Lot Coverage sq. ft. (%)</b>	2,610 (25.5%)	2,562 (24.9%)	3,587 (35%)
<b>On-Site Parking</b>	Covered 1	No change	2
	Uncovered 1		
<b>Stories</b>	2	2	2
<b>Maximum height above average existing grade</b>	22 feet, 3 inches	25 feet, 7 inches	30 feet
<b>Zoning</b>	R-1	No change	NA
<b>Flood Zone</b>	X (not a flood zone)	No change	NA

#### Project Description

The proposed project is to build out the existing attic space on the west side of the residence. The additional 638 square feet on the upper level will include two bedrooms, a playroom, a bathroom and storage areas. The lower floor modifications include the conversion of a bedroom into a stairway and closet. Exterior modifications include the addition of four dormers on the west elevation facing Crescent Road, two dormers on the east elevation and a new entry roof over the front door. The project also includes raising the roof ridge by 3 feet 4 inches. The maximum height of the remodeled residence will be 25 feet 7 inches. The basement area is also proposed to be built out with a play area, a laundry room, half bathroom and mechanical room. The basement area is not considered a story because the finished floor located immediately above the basement is less than six (6) feet above the adjoining grade. The construction within the basement area does not require design review.

The project also includes an after-the-fact grading permit for the excavation of 250 cubic yards of soil for the basement and 190 cubic yards of fill to level the front yard. A total of 60 cubic yards of soil were exported off site. This grading work was done under a previous building permit to remodel the house, replace the foundation and construct an unconditioned basement.

## **Project Analysis**

The initial remodel of 130 Crescent Road was submitted and approved as a building permit. As the project developed, basement modifications were made and the request to build out the 638 square feet of attic space was presented to the Town. At this point staff made the following determinations: 1) design review is required for the proposed construction of the 638 square foot second level; 2) a variance is required for the new living space, roof addition and dormers proposed within the rear setback; 3) an after-the-fact grading permit is required for the excavation of 250 cubic yards of soil, the placement of 190 cubic yards of fill into an abandoned swale and the off-hauling of 60 cubic yards of soil.

The variance application is a request to encroach into the rear setback with two dormers, one on the east and one on the west elevation, and a section of roof that is nine feet eleven inches long by three feet four inches high. The new living area encroaching into the rear setback, which was previously attic space, is approximately 160 square feet. Each dormer in the setback area is approximately 5 feet high and 9 feet wide.

The majority of the 638 square feet of attic area to be converted to living space conforms to the required setbacks. It is the last nine feet eleven inches, at the northern end of the addition, which requires a variance. Staff worked with the applicant and suggested that the project be scaled back so all setbacks could be met. No variance would then be required and the project would still include an addition of approximately 475 square feet on the upper level. This scaled back alternative would result in a balanced west elevation with two upper level dormers and a dormer in the stairway.

Staff met with the applicant and owner to explain the inability to make the findings necessary to grant a variance. Staff explained that the Town has no flexibility with the findings for a variance; unlike other entitlements (design review, use permit, etc.) variance findings are mandated by the State, not the Town, and are very difficult to make. Staff indicated that since there are no special circumstances unique to this property, and since there is ample opportunity on the site to expand the house without the need for a variance, a variance cannot be supported. Staff strongly recommended a redesign, consistent with zoning requirements, so that the project could be approved. The applicant has chosen not to accept this suggestion but to proceed to the Planning Commission with the request for a variance, with the knowledge that staff is unable to make the required findings.

## **Public Notice**

A notice was sent to all residents and property owners within 300 feet of the project. No comments were submitted to the Town in response to the notice. The applicant did provide 9 letters and emails of support from adjacent neighbors (Attachment 2).

## **II. REQUIRED FINDINGS**

### **Design Review**

In order to grant the flatland design review application, the Planning Commission must make all of the required findings listed below.

1. *The project will not unreasonably impair access to light and air of structures on neighboring properties.*

The nearest residence to the east is approximately 60 feet away; the nearest residence to the west is approximately 90 feet away; the nearest residence to the south is approximately 120 feet away. The residence to the north, potentially most impacted by shading caused by the proposed project, is 30 feet away and screened by a grove of large trees. Based on the project's small increase in roof

height, its orientation, and the existing trees, a shadow study was not required. Story poles have been installed to show the public and the Commission the outline of the proposed addition.

2. *The project will not unreasonably affect the privacy of neighboring properties including not unreasonably affecting such privacy by the placement of windows, skylights and decks.*

The second story windows on the proposed west elevation will be approximately 90 feet away and across the street from the nearest neighbor to the west (141 Crescent Road). The residence to the west is also significantly higher in elevation from the project site. Two dormers are proposed on the east elevation, which will be approximately 60 feet away from the nearest residence and will not unreasonably affect privacy.

3. *The project will be of a bulk, mass and design that complements the existing character of the surrounding neighborhood.*

The project's bulk and mass will be increased with the additional roof height, most noticeably on the west elevation. The ridge height will increase by 3 feet, 4 inches. The massing of the front and rear elevations will increase with the addition of the new roof element and the dormers. The increase in bulk and mass of the east elevation will be similar to that of the west, but less noticeable because it faces the center of the parcel.

The total square footage of the proposed project (3,368 sq. ft.) is larger than 10 of the 13 adjacent homes. The increase in bulk and mass could be reduced by scaling back the project by not adding the additional roof area and dormers which are proposed to encroach into the rear setback and requiring a variance that staff is not able to support.

The most significant change in the design of the proposed project is the addition of the four dormers on the west elevation. The existing elevation is a simple, single-story, elevation with a large steep roof and four windows with two different styles. The proposed west elevation has four dormers at two different levels and eight windows with four different styles.

4. *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 neighborhood.*

Construction will be required to be in compliance with all adopted building codes, thereby ensuring the health and safety of persons in or near the property.

Staff is able to make all the findings for design review.

### **Rear Setback Variance for Second Level Addition**

In order to grant the rear setback variance for the second level addition, the Planning Commission must make both of the required findings listed below.

1. *That due to the special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict interpretation of the controlling zoning ordinance or regulation deprives the property of privileges enjoyed by other property in the vicinity and under an identical zoning classification, and the granting of a variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.*

There are no special circumstances applicable to this property which warrant the requested rear yard setback variance. The parcel is a five-sided polygon with an area of 10,249 square feet in a zoning district with a minimum lot size of 7,500 square feet. The lot is of average size compared with surrounding properties; it is larger than the three adjacent parcels to the east and smaller than the three adjacent parcels to the north. Compared to the 13 parcels in the area, six are larger and seven are smaller. The parcel is relatively level with a minimum elevation of 90 feet and a maximum elevation of 96 feet. The topography of the site is not unusual. The existing drainage swale at the front of the lot has been filled in and does not inhibit development of the lot. The location of the lot is a typical residential area of San Anselmo, about one-half of a mile from downtown. It is surrounded by other single-family homes.

The parcel is adjacent to Crescent Road on the west and south sides. The San Anselmo Municipal Code defines the front property line of a parcel that is adjacent to two or more streets as the shortest property line that is adjacent to a street. This particular parcel poses a challenge in defining the shortest property line adjacent to Crescent Road. The western property line is 89.19 feet in length while the southern property line is 60.0 feet in length. However, there is a 50 foot long property line segment of the parcel which is also adjacent to Crescent Road but is not clearly associated with the western or the southern property line. Staff made a liberal interpretation and took into account the placement of the residence and determined that the front property line is the southern property line. This determination was advantageous to the proposed project because it allows the new single-car garage to be placed 8 feet from the eastern property line instead of 20 feet, required had it been called the rear property line. This resulted in a much more attractive and useable front yard.

None of the characteristics of this typical lot limit or deprive the property owner of developing the parcel. The parcel has vacant areas for expansion to the south of the residence, which are outside the setback areas. Additional second-level living space could also be added to the residence that is outside of the required setbacks and would not require a variance.

Staff worked with the applicant to reach a compromise wherein a variance would not be required but ±475 square feet of second level living space could still be added. The applicant chose not to pursue this option and requested the variance application go before the Planning Commission for review.

Approving the variance to develop the attic space by raising the roof and adding dormers would constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity. Records show that the Town has only granted one setback variance in the past five years within the immediate neighborhood. That variance was granted based on the special circumstance of steep topography on the lot.

Staff is not able to make this finding.

2. *That the granting of the variance, under the circumstances of the particular case, 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 the property or improvements in such neighborhood.*

The granting of the rear setback variance for the second-level addition will not materially affect adversely the health or safety of persons residing or working in the neighborhood or be detrimental to the public welfare, property or neighborhood improvements. All construction activities will be reviewed and monitored by Town of San Anselmo staff for compliance with all applicable codes. Construction will proceed in a timely and efficient manner to minimize impacts on the neighborhood.

Staff is able to make this finding.

## Grading Permit

In order to grant the after-the-fact grading permit, the Planning Commission must make all of the required findings listed below.

1. *The health, welfare, and safety of the public will not be adversely affected.*

Construction will continue to be in compliance with all adopted building codes and public works standards, thereby ensuring the health and safety of persons in or near the property.

2. *Adjacent properties are adequately protected by project investigation and design from geologic hazards as a result of the work.*

The adjacent properties are adequately protected from geologic hazards that could result from this project. A geotechnical report was provided as part of the building permit submittal and was approved by the Building/Public Works Department prior to issuance of the current building permit. Additional report(s) may be required with future building permits.

3. *Adjacent properties are adequately protected by project design from drainage and erosion problems as a result of the work.*

Detailed drainage and erosion control plans that protect adjacent properties from drainage and erosion were provided and approved as part of current building permit. Additional plans may be required.

4. *The amount of excavation, grading, or fill proposed is not more than is required to allow the property owner reasonably beneficial use of his or her property.*

The proposed earthwork for the project is reasonable to construct the proposed addition at this location. Excavation, grading and fill have been minimized.

5. *The visual and scenic enjoyment of the area by others will not be unreasonably adversely affected by the project.*

The grading work will not unreasonably adversely affect the visual and scenic enjoyment of the area within the vicinity of this project.

6. *Natural landscaping will not be removed by the project more than is necessary and that any removed vegetation will be replanted in a timely manner.*

Natural landscaping will only be removed where necessary to accommodate the proposed work. Areas removed of vegetation will be replanted as soon as possible to ensure slope protection prior to the rainy season.

7. *The time of year during which construction will take place is such that work will not result in excessive siltation from storm runoff or prolonged exposure of unstable excavated slopes.*

Grading work will not be allowed prior to April 15<sup>th</sup>. All grading work must be completed prior to October 15<sup>th</sup>.

8. *The proposed excavation, grading, or fill does not violate the Town's General Plan or Zoning Codes.*

The proposed grading work is consistent with the Town's General Plan and Zoning Ordinance.

9. *Sufficient erosion control measures will be employed to offset any impact by the proposed excavation, grading, or fill.*

No grading work will be allowed prior to April 15<sup>th</sup>. Disturbed areas of construction must be replanted and established prior to October 1<sup>st</sup> or erosion control measures in accordance with the erosion control plan must be in place.

Staff is able to make all the findings for the after-the-fact grading permit.

Prepared By:

Phil Boyle  
Senior Planner

Attachments:

1. Application, supplemental questionnaire, Letter from N. Sorensen June 12, 2014
2. Letters and emails of support
3. Plans

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