

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF SEPTEMBER 15, 2003**

A. CALL TO ORDER

Commissioners Present: Chair Harris, Vice-Chair Sisich, Commissioners Fernandez, Jochum, Wittenkeller
Commissioners Absent: House

B. OPEN TIME FOR PUBLIC EXPRESSION

None.

C. CONTINUED PUBLIC HEARINGS

1. DR-0327 – Colin MacKensie and Kim Beaudry, 75 Olive Avenue, APN 007-084-07, hillside design review of a 629 square foot second story and 156 square foot deck, located within the R-1 zoning district. (Staff person: Chambers) **CONTINUED TO 10/6/03**

D. PUBLIC HEARING ITEMS

CONSENT AGENDA

1. **MINUTES – August 18, 2003**

M/s Wittenkeller/Zwick and passed (5-1 abstention: Harris who was absent at the last meeting) to approve the minutes.

2. U-0315/SR-0304 – Peter McNair, 337-339 San Anselmo Avenue, APN 007-252-17, Use Permit to modify an existing use permitted hotel and restaurant facility of approximately 8,000 square feet, and Sign Review of a conforming sign, located within the C-2 zoning district. (Staff person: Bell)

Planning Director Bell presented the Staff report. In response to Commissioner Jochum, Mr. Bell said that the background of the new signage is actually a darker gray than the background shown on the drawing (no changes). Only the sign is changing, which will be applied over the present sign.

M/s Jochum/Wittenkeller and unanimously passed (6-0) to approve the project.

3. U-0314/SR-0303 – Len Rifkind, 145A Tunstead Avenue, APN 007-251-13, Use Permit to establish a ±1,900 square foot furniture upholstery repair and antique restoration facility, and Sign Review of a conforming sign, located within the C-2 zoning district. (Staff person: Bell) **WITHDRAWN**

4. U-0316/SR-0305 – Karen Andes and Dianne Carniglia, 40 Greenfield Avenue, APN 006-251-10, Use Permit to establish an 1,800 square foot exercise studio and clothing boutique, and Sign Review of a conforming sign, located within the C-3 zoning district. (Staff person: Bell),

Planning Director Bell presented the report. In response to Chair Harris, Karen Andes, applicant, said that she expects 6 – 15 people to attend dance/fitness classes at any one time and that the classes would be held before or after business hours. She confirmed that the space is soundproofed.

In further response to Chair Harris, Ms Andes said that class attendants would use street parking, whilst the three on-site parking spaces would be reserved for staff use. Mr. Bell confirmed that a parking variance granted in 1980 is still valid and thus more on-site parking spaces are not required.

In response to Commissioner Wittenkeller, the applicant said that toilet facilities were in the common hallway that is not shown on the plans and are shared with other businesses.

In response to Vice Chair Sisich, Ms. Andes said she would like the sign to be lighted overhead, in a similar fashion to the lighting used by Bomark. Mr. Bell said that lighting details were minor but that the Commission could allow offsetting lights.

M/s Sisich/Zwick and unanimously passed (6-0) to move the staff report with the added condition that a lighting plan (if proposed) be submitted and approved by staff.

Chair Harris advised all parties of interest of the 10-day appeal period to the Town Council for all items on the Consent Agenda.

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REGULAR AGENDA

5. **DR-0330 - Robert and Gretchen Mathis, 17 Medway Road, APN 005-154-14**, appeal of an administrative design review approval of dormers (approximately 86 square feet) and a 10' height increase of approximately 450 square feet of roof area, thereby creating adequate ceiling height for a second story living area (same proposal as conditionally approved in 2000, which was not constructed and, therefore, has expired), located within the R-1 zoning district. (staff person: Wight)

Commissioner Zwick recused himself from the discussion because he lives nearby.

Senior Planner Wight presented the report. In response to Chair Harris, Ms. Wight confirmed that the door and windows on the west elevation were framed without Planning or Building Permit approval.

The appellants, Dax Clark of Sebastopol and Tracy Wright, 38 Oak Knoll Ave, said that their main concern was one of privacy because the dormers will allow the home owners to look into the back yard of 38 Oak Avenue. Mr. Clarke noted that there were no other 2-story homes in the area and he said that Ms. Wright and her mother are concerned that their property's value will be affected by the new development. Mr. Clarke presented photographs and noted that only one mature tree provided adequate foliage. In the absence of this tree, the homeowners would see directly into the Wrights' yard. Mr. Clarke believed that a rear deck does not meet set back requirements.

Ms. Wright confirmed her concern that her neighbors will be able to look into her yard and kitchen. However, should the plans be approved she is concerned that the structure will not be built according to the plans, in light of the owners having built beyond their approved plans on a previous occasion. In response to Chair Harris, Ms. Wright said that further landscaping would be helpful although not sufficient for a 2-story building. Mr. Clarke suggested that a landscaped drawing be produced to verify the height to which vegetation would grow.

Brian young, 26 Oak Knoll Ave, is concerned that the deck encroaches on the 20' set back. Mr. Harris explained that the deck does not require a variance because the structure is below 30' above grade. He further explained that the staff report recommends the removal of the rear windows and door.

Robert Mathis, 17 Medway, presented drawings showing that sufficient foliage exists to provide screening. In response to Commissioner Wittenkeller, Mr. Mathis confirmed that he still intends to plant additional trees, which he has not discussed with his neighbors. In response to Commissioner Jochum, Mr. Mathis said the he framed out the dormers without approval in order to apply sheeting before winter set in, knowing that the project could not be finished due to financial constraints. Chair Harris reiterated the appellants' concern that the owners must comply with the plans if the Planning Commission grants approval of the project.

In summary, Mr. Mathis said that he had a young family and needed more room and that he did not believe the project will be detrimental to the neighborhood. He would be willing to add more landscaping to mitigate neighbors' privacy concerns.

Commissioner Wittenkeller believed the request for dormers and access windows is not unreasonable in conjunction with staff's recommended conditions. He suggests that 3:15-gallon shrub trees are planted to produce adequate screening. He supports Staff's report with this added recommendation. Commissioners Fernandez and Jochum, Chair Harris and Vice Chair Sisich are in agreement.

M/s Wittenkeller/Jochum and unanimously passed (6-0) to deny the appeal and approve the project with staff's recommended conditions. A further condition is that 3:15-gallon evergreens will be planted to provide screening, to be agreed upon by the neighbors, and planted before the project is completed.

6. **V-0342/DR-0328 -Thomas Crowell and Patricia Pirrone, 68 Bennit Avenue, APN 005-091-07**, hillside design review of a 38 square foot main floor addition, a 410 square foot upper floor addition, a 166 square foot upper ceiling addition (no floor), and a 9 square foot upper floor uncovered deck; setback design review for the main floor addition to be constructed within 5' of the east side property line (Code setback: 8'); and a setback variance for the upper floor addition to be within 5.5' of the west side property line (Code setback: 12'), located within the R-1 zoning district. (Staff person: Wight)

Ms. Wight presented the report.

Fred Divine, Architect for the project, said that permission for a modest addition was being sought, for which a set back variance is unavoidable, due to the height of the dining room ceiling. Mr. Divine said that he had worked with feedback from neighbors and staff and noted that four major changes had been made prior to the current plans. The windows on the top floor provide light and air but are too high for a person of normal height to see into the neighboring properties, with the exception of the window in the stairwell. Mr. Divine said that the size of the deck has been reduced to address concerns about privacy and the ridgeline of the new addition has been lowered significantly. The height of the story poles has been lowered to reflect this change.

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Mr. Divine addressed concerns regarding the fireplace. He noted that Town Codes permit a fireplace and said that the owners prefer to rebuild the fireplace in its current position. The owners do not use the fireplace to excess and asked that it be allowed to remain.

With regard to privacy, Mr. Divine said the owners are willing to plant additional trees in the back, acknowledging that the foliage providing heavy screening at present is deciduous. Referring to a neighbor's letter, Mr. Divine said that if the road is deemed to be private, then the applicants will apply to the owners for permission to use that road for access during construction.

In response to Vice Chair Sisich, Mr. Divine said that he had considered a spiral staircase to the loft area so that additional space would not be needed. However, the additional space does allow for a better design to let natural light into the dining room.

In response to Chair Harris, Mr. Divine said that the chimney is moving from the back wall to the side wall and will be approximately 25' from the neighboring house on the east side. The new chimney will be 6' higher than the present chimney. Mr. Divine told Chair Harris that the heritage oak tree is of primary concern to his clients and is an important part of the property.

The Applicant, Thomas Crowell, explained that he and his wife want to extend their home to accommodate their growing family. They have been working with the architect to appease neighbors' concerns over issues of privacy and aesthetics, making concessions as necessary. Mr. Crowell said that the design is in keeping with the area and they are asking for what they need, not a large addition.

Keith Platte, 44 Bennit Road, supports the project. He believes the owners deserve to improve their home as much as the next person, providing they meet building and planning regulations and solve privacy issues.

Matthew Ehlen, 53 Bennit Ave, also supports the project, acknowledging that the homeowners need a larger house to raise their family.

Dean Jones, 70 Bennit Ave, said the character of the neighborhood will not be maintained if the house is allowed a third story. Furthermore, he does not think it is necessary for the applicants to enlarge their home and he is concerned that the value of the neighboring properties will be affected. He believes that it is not possible for evergreen foliage to provide sufficient screening for the addition. Mr. Jones said that the staff report does not take into account issues of health, light and privacy that are of concern to the neighbors. He further requests that the owner be required to undertake a professional survey. Overall, Mr. Jones is opposed to the building of a higher, larger home.

Linda Hannan, 48 Camino de Herrera, is concerned that her privacy will be affected. She presented photographs showing the view from her property with story poles in place. The addition will allow the owners to look into her upstairs office, den and swimming pool area. Furthermore, the story poles indicate that a portion of the tree will need to be cut back.

John Wilson, 75 Bennit Avenue, is also concerned with the privacy issue. He believes there will be more eye traffic as people enter and exit the French doors. He is further concerned that flooring will be laid in the upper region of the house, creating illegal space.

Eric Harnew, 66 Bennit Ave, is concerned by the loss of privacy in his back yard and he was surprised that the proposal includes another floor, having believed that the addition would be much smaller. He has lived in the house since 1977 and has enjoyed total privacy until this point. His neighbors will have a complete view of his back yard from the French doors. Furthermore, the smoke from the chimney at 68 Bennit Ave. causes his wife's migraine headaches and he is concerned that the fireplace may be used more often in the future. Mr Harnew objects to the new positioning of the fireplace. Furthermore, Mr. Harnew is concerned that the foliage of the oak tree obscures the story poles so that he is unable to understand the full impact of the development. Given the size of the tree, he does not believe more foliage will be able to thrive to provide extra screening. Overall, Mr Harnew would prefer the owner to excavate at the back of their property.

Linda Lachelt, 70 & 80 Bennit Ave, said that she bought the house 10 years ago because of the privacy afforded by her garden. The stairway window of the new development will look directly into her garden, thereby removing her privacy. In response to Chair Harris, Ms. Lachelt felt that opaque glass might remedy the situation. Furthermore, she believes the new addition will affect the morning sunlight on her property. Ms. Lachelt noted that she is unable to leave her house whilst the addition is under construction. In response to Chair Harris, Ms. Lachelt suggested the house could be enlarged by excavating into the ground. However, she does not believe that a compromise with the neighbors can be reached.

In response to Chair Harris, Mr. Divine said that the house would need to be torn down in order to create additional space by excavating through the ground. He did not believe it unreasonable to create a master bedroom at the top of the house. Mr. Divine notes that the windows that look into Ms. Lachelt's property have a plate height of 6' and that other yards are visible from oblique angles only. He noted that the upper area over the dining room is unable to be floored given the design of the cathedral ceiling and noted that the ordinance construes the space as being added in terms of needing design review but not as "floor area". Mr. Divine suggested that a skylight could replace the dormer.

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Furthermore, he reminded the Hearing that should his clients withdraw the Variance and reduce the extension to under 500 sq ft, then they could apply for a building permit and install windows as they wish. With regard to the oak tree, Mr. Divine said that it is not possible to build around it and noted that a fig tree offers suitable screening for the property at 70 & 80 Bennit Avenue, although he acknowledges that it is deciduous.

Commissioner Zwick noted that the Planning Code does not stipulate that a resident has the right not to view an addition, nor be seen from the new addition. He further noted that the architect has done all that is possible to reduce the mass, whilst allowing his clients as much space as possible. The Commissioner acknowledged that the shape of the property does not lend itself to easy screening. He reminded the Hearing that Mr. Divine might be able to redesign the addition to abate the need for a variance, which will allow the owner to install windows at the height that he chooses. The neighbors' privacy will then be affected to a greater degree. He suggested that the architect explain the plans more fully to the neighbors so that they understand how far their privacy will really be invaded.

Vice Chair Sisich believes that it is not unreasonable for the applicant to want to enlarge his home but suggests there might be ways to mitigate privacy problems, perhaps by additional screening or trellising. He suggests that opaque glass be installed in the stair window and would like more discussion to continue between the neighbors and owners. However, he will ultimately support the project.

Commissioner Jochum is in agreement with Commissioner Zwick, although he believes the greater issue is the difficulty people have in interpreting drawings and understanding how the addition will affect their privacy in reality. He believes that the addition is not an unreasonable size, although he acknowledges that it is not the smallest in the area. The Commissioner does not believe this project in any way impacts light, air and even the privacy of neighbors. The stair window poses the only problem to privacy and he is willing to support the project as it stands should the neighbors and applicant not be able to reach a compromise.

Commissioner Wittenkeller believes that the neighbors have legitimate concerns and that they and the applicants need to discuss matters further. The Commissioner does not believe that alternative solutions have been exhausted, perhaps by using some of the crawl space or utility space on the lower level.

Commissioner Fernandez supports the project but suggests the architect and neighbors try to resolve their differences.

Chair Harris places importance on the harmony of the neighborhood but he might support the project when it returns before the Commission if a solution has not been found. He believes a shadow study might be beneficial and noted that the house will not be excessively large, although it will be approaching the maximum FAR. Mr. Harris noted that the neighbors also have property rights, which they may choose to exercise. Chair Harris supports a continuance of the item in the hope that a compromise can be reached between the owners and neighbors.

M/s Fernandez/Wittenkeller and unanimously passed (6-0) to continue the project to the meeting of October 6, 2003.

7. **V-0340 – Laurel Mellin, 138 Woodland Avenue, APN 005-221-16**, setback variances to 1) construct basement, main floor, and upper floor additions within 3' of the west side property line; and 2) reconstruct and enlarge a one-car garage within 1.5' of the east side property line, located within the R-1 zoning district. (Staff person: Wight)

Senior Planner Wight presented the report and letters of support.

In reply to Chair Harris, Don Thompson, contractor and designer, said that there was no opposition to the project. The owner would like to extend her house but maintain as much space as possible between her home and her neighbors' homes. Thus they are asking to extend 8ft at the back of the property.

Laurel Mellin, applicant, explained that she would like a modest extension and has spent time minimizing the impact of her project on the neighborhood.

M/s Jochum/Fernandez and unanimously passed (6-0) to approve Staff's report.

Chair Harris advised all parties of interest of the 10-day appeal period to the Town Council.

8. **Town of San Anselmo – Zoning Ordinance amendment to the Merger Ordinance, SAMC 10-3.2703(b) (4)** replace the word "stability" with the word "density" in order to comply with State law. No change to Ordinance intent or interpretation.

M/s Jochum/ Zwick and unanimously passed (6-0) to move the staff report. A recommendation will be made to the Town Council at the meeting of September 23, 2003.

E. GENERAL DISCUSSION

A telecommunications ordinance needs to be adopted by March 2004.

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F. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

The playhouse at 15 Morningside Drive was approved as built.

G ADJOURNMENT TO THE MEETING ON MONDAY OCTOBER 6, 2003

The meeting was closed at 10.30am.



**JOANNE O'HEHIR
SR. ADMIN. SERVICES ASST.**