

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

**A. CALL TO ORDER**

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

**B. OPEN TIME FOR PUBLIC EXPRESSION**

**C. CONTINUED PUBLIC HEARINGS**

1. **Z-0302 – TOWN OF SAN ANSELMO**, Zoning Ordinance Amendments to the Temporary Signs Ordinance, Title 10, Chapter 9, Article 3. (Staff person: Wight) **CONTINUED TO JANUARY 5, 2004**

**D. PUBLIC HEARING ITEMS  
CONSENT AGENDA**

1. **MINUTES – December 1, 2003**

M/s Fernandez/Sisich and passed (4-1 abstention: Jochum) to approve the minutes with minor corrections.

2. **UP-0322 – Bill and Janet Johnson, 348 Oak Avenue, APN 007-181-18**, Use Permit to allow exceptions to standards for a residential second dwelling unit in an existing studio, located within the R-1 zoning district (above 150' mls). (Staff person: Chambers)

3. **V-0359 – Kathleen McTernan, 26 Grove Lane, APN 07-161-06**, variance to expand a garage within 17' of the front property line (Code: 20') and 3' of the east side property line (Code: 8') and add an entry porch within 3' of the west side property line (Code: 8'), within the R-1 zoning district. (Staff person: Bell)

M/s Fernandez/Jochum and unanimously passed (5-0) to approve items 2 and 3 on the Consent Agenda.

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

**REGULAR AGENDA**

4. **V-0361/DR-0346 - Timothy Kemp, 17 Hillcrest Court, APN 7-121-10**, setback variances and design review to reconstruct a dwelling (more than 50% of existing dwelling removed) within 3' of the south side property line and 9" of the north side property line, the only exterior extensions to the existing dwelling dimensions being the addition of a dormer on both the north and south sides of the dwelling (the dormers previously received administrative design review approval prior to the removal of more than 50% of the existing dwelling), located within the R-1 zoning district (above 150' msl) (Staff person: Wight)

Senior Planner Wight presented the staff report.

In response to Chair Harris, Ms. Wight said that, as far as she is aware, no changes to the project have been made since receiving administrative approval.

In reply to Vice-Chair Sisich, Ms. Wight said that only one wall remained and if approval is granted this evening, then the owner could rebuild the walls in accordance with approved plans.

The applicant, Tim Kemp, explained that he wanted to renovate his 100-year old home and was not planning to add more space. In response to Chair Harris, Mr. Kemp said that his neighbor does not object to the decks being built in the setback.

M/s Jochum/Fernandez and unanimously passed (5-0) to approve the project based on the findings and conditions as set forth in the staff report. Chair Harris advised all parties of interest of the 10-day appeal period to the Town Council.

The Commission voted to change the order of proceedings.

**E. GENERAL DISCUSSION**

(Taken out of order)

Planning Director Bell said that the Council has requested a formal report for changing the Zoning Code to allow a vacant non-developed lot to allow a garage as an accessory building. It will be presented to the Commission next year.

A zoning ordinance needs to be developed to allow replacement in kind with particular reference to non-conforming buildings

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Mr. Bell reported that the State is in possession of the Town's response to their comments on the Housing Elements. In response to Chair Harris, Mr. Bell said that very few Marin towns have completed their elements.

In response to Vice-Chair Sisich, Mr. Bell said that there were a large variety of comments from the State that needed a response with regard to the Housing Element.

Vice-Chair Sisich asked if an ordinance existed to govern satellite antennas and photo voltaic solar panels on private roofs. In response, Mr. Bell said that building permit requirements exist but that planning rules are not applicable to those properties in flatlands. Design review would be needed for hillside properties and height restrictions apply in all instances.

**F. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL**

311 Laurel Ave, 57 Medway Road

- 5. Z-0303/ER-0304 TOWN OF SAN ANSELMO**, Environmental Review and consideration of an ordinance of the Town of San Anselmo amending Ordinance Number 1001 Establishing Zoning Regulations for Wireless Communication Facilities. (Staff person: Bell)

Planning Director Bell presented the Staff Report

In response to Chair Harris, Mr. Bell clarified the reports that were included in the packet. He said that the Commission could vote on the Negative Declaration this evening.

Jane Hall, 31 Nokomis Ave, said that her concern for antenna sites arose from the application for an antenna site at Redhill Church, near her home. Speaking on behalf of the concerned citizens group, Ms. Hall said that insufficient data has previously been required for antenna applications. She noted that the group has studied a number of other towns' ordinances from which they fashioned draft ordinances for the Town of San Anselmo for staff. They see a need for people to understand and evaluate the effects of antennas before more are built in San Anselmo.

In response to Chair Harris, Ms. Hall said that the group chose the Ordinance from Santa Cruz on which to model their draft because they considered it more thorough in its approach for requesting information from an applicant. Ms. Hall noted that with the exception of the propagation diagram, they support Mr. Bell's report.

In response to Commissioner Fernandez, Ms. Hall said that Santa Cruz's ordinance was updated.

Commissioner Zwick commended the group on their work. He noted that the Town cannot simply turn down applications because it does not agree with the medical issues. It appears that if an applicant meets the rules and requirements of the draft ordinance, then more antennas can be built.

Planning Director Bell said that he deliberately omitted the propagation diagram because he believes it is biased towards those who are against antennas and it is not relevant to the decision making process. A decision must be made on land use and not on the Commissioners' personal feelings. Hadden Roth, Town Attorney, suggested that a third party should review the ordinance. He believes that the draft needs to be analyzed by an expert to ascertain whether or not it complies with the law. The Town needs to guard against potential challenge.

In response to Chair Harris, Mr. Bell said that the draft Ordinance does allow for requests for further information by the Planning Director and/or peer reviewer. He confirmed that he has a recommendation for a peer reviewer but the process could be expensive. Furthermore, the Town must not prohibit specific zones if that zone is necessary to address the gap, which is a potential problem.

In further response to Chair Harris, Mr. Bell said that he did not think there was a location within the town that is not within 500 feet of a residential zone.

Cindy Goefft, 51 Austin Ave, said that she studied a previous antenna application and believes that very little technical information was made available apart from the number of antennas. An independent reviewer was unable to produce a report because pertinent information was lacking. Therefore, Ms. Goefft would like to see some standards introduced by which the Town and residents can judge the antennas based on compliance with FCC and third party review. She said that the effects of the antennas already in town have not been studied and that a protocol for compliance on antennas needs to be established. Ms. Goefft believes that her group's draft ordinance addresses this issue.

In response to Commissioner Fernandez, Ms. Goefft said that Jane Hall has approached another attorney for a second legal opinion. Ms. Goefft noted that the planning process for building homes is stringent but nothing exists for antenna beyond envelope restrictions.

In further response to Commissioner Fernandez, Ms. Goefft said they are not trying to overcome FCC regulations but to define them. At the present time, it is sufficient for carriers to announce

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their compliance. She would like the application to require more information. Chair Harris suggested a standard application, prepared by an expert. Ms. Geofft said the desire is to accumulate enough information legally so that informed judgements can be made as to the appropriateness of antennas.

In response to Chair Harris Ms. Geofft said that there are 46 antennas in San Anselmo but she does not know how many more are planned.

In response to Commissioner Fernandez, Ms. Geofft said the objective is to monitor antennas, control the numbers and ensure compliance. At the moment, there is no monitoring of antennas and she noted, in response to Commissioner Fernandez, that retroactive monitoring of present antennas is not addressed in the ordinance. Ms. Hall said that San Rafael is looking into this matter.

With confirmation from Mr. Roth, Chair Harris noted that the ordinance would have to state that retroactive applications for present antennas would be necessary and that it would have to withstand legal challenge. He would suggest that antenna already in operation would become subject to monitoring, which should be encompassed in the ordinance.

In response to Chair Harris, Mr. Bell said that the Town currently has no provision to monitor antennas built on private land.

Mr. Bell said that he expected more to be added to the list and that the application would not be complete until he had all the information he needed and a third party had offered an opinion.

Chair Harris said that he does not support the proliferation of antennas but his opinion does not affect Federal Law. Chair Harris would like the ordinance to slow down the process at minimal cost to the town and minimal to zero legal cost. He believes it would be a financial burden to enact an ordinance that could be challenged. Chair Harris suggested that the Town of San Anselmo base its ordinance on that of a larger municipality, such as Santa Cruz, which has larger recourses. He also noted that Mr. Hobson, a consultant, seemed risk- adverse.

Ms. Geofft said that she adapted Santa Cruz's ordinance for San Anselmo and Mr. Bell confirmed that it is basically the same ordinance condensed to meet San Anselmo's requirements.

Mr. Roth said that his recommendation would be to ask Mr. Hobson to check the ordinance for legal details. Commissioner Zwick is in agreement and said that that there is a lot of litigation in this area which the Town should avoid.

Chair Harris said that a fee could perhaps be charged for an antenna application which could be used for monitoring by the Town. He suggested a standardized application, reviewed by an expert to ensure the Town is in the ballpark. Chair Harris also suggested that an application be submitted under penalty of perjury.


Mr. Bell suggested an annual permit to enable monitoring of antennas, which could be peer-reviewed if there were changes. It would be necessary to include it in the ordinance. In response to Chair Harris, Mr. Bell said that a fee would need to be established, based on costs, and suggested that it be deposit-based to enable the Town to retain the right to revoke a permit. This would also need to be made part of the ordinance.

Mr. Roth reiterated the need for Mr. Hobson to study the prospective ordinance. Mr. Bell said that the Council needs to review the draft ordinance on 13 January 2004. If the Council make significant changes then it will need reviewing, once again, by the Commission. The existing ordinance will take effect if a decision cannot be reached before the moratorium ends on 11 March, 2004.

M/s Fernandez/Zwick and unanimously passed (5-0) to continue the item to 5 January, 2004. In the meantime, the draft ordinance will be sent for legal review.

**G ADJOURNMENT TO THE MEETING ON MONDAY JANUARY 5, 2004**

The meeting was adjourned at 8.45pm.

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