

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF NOVEMBER 3, 2003**

A. CALL TO ORDER

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

B. OPEN TIME FOR PUBLIC EXPRESSION

None

C. CONTINUED PUBLIC HEARINGS

1. V-0342/DR-0328 – Thomas Crowell and Patricia Pirrone, 68 Bennit Avenue, APN 005-091-07, height variances to construct a 10' high fence along a portion of the east side property line (Code: 6') and a porch entry screen 10' above the adjacent grade within 2.75' of the west side property line (Code: 6'); and a setback variance for a porch overhang to be within 1.75' of the west side property line (Code: 10'), located within the R-1 zoning district. (Staff person: Wight)
CONTINUED TO 11/17/03

D. PUBLIC HEARING ITEMS

CONSENT AGENDA

1. MINUTES – October 20, 2003

M/s House/Fernandez and passed (6-1 abstention: Wittenkeller) to approve the minutes with minor corrections.

REGULAR AGENDA

2. DR-0335 – Tom and Kari Levine, 115 Sunnyside Avenue, APN 007-263-03, amendment to the 3/17/03 design review approval to add a 997 square foot second story addition to a new single family dwelling, located within the R-1 zoning district. (Staff person: Chambers)

Planner Chambers presented the staff report. The applicant, Kari Levine, explained that she disliked the original plans and believed that the new design is a compromise between themselves and the neighbors.

In response to Chair Harris, Tom Levine, applicant, indicated the new location of the palm tree. He confirmed that the neighbor who expressed the most concern agrees with the new location. Mr. Levine further confirmed that he had met his neighbors, again, and noted that the owner of 15 Foss Avenue held no objections but still preferred the previous plans. He had discussed a bedroom window with the owner of 109 Sunnyside Avenue with the result that it would be replaced by 2 smaller windows that did not line up directly with Mrs. Massara's dining room.

Mr. Levine said that other neighbors wanted certain changes that did not please him or his wife. In response to Commissioner House, Mr. Levine said that little can be seen of his neighbor on his left from the windows in the second story. He presented photographs to show the difficulty in maintaining his neighbors' privacy.

Barbara Stewart, 18 Foss Ave, said that she is not a close neighbor but that she has been asked to represent some of the neighbors because she is an architect. She confirmed that the neighbors have asked the applicant to make certain changes but that it was thought that the applicant would ask for the project to be continued.

In response to Chair Harris, the applicants said they wanted a decision to be made this evening.

Mark Stewart, 18 Foss Ave, said that the addition is too tall and the mass too large. He disagreed with the arborists' reports and questioned the completeness of the application.

In response to Chair Harris, Ms. Chambers confirmed that the application was complete.

Marilyn McCoppen, 127 Sunnyside Ave, said that the front room remained a problem with the neighbors. It was explained that the applicant had agreed to move the structure back 2 feet but the moving of the room was not under discussion at this meeting.

Commissioner Wittenkeller felt that the owners have done much to mitigate potential privacy issues and he believed that there are no substantial problems that will affect neighboring properties. He noted that a variance was not requested and felt that the owners have made a gesture of goodwill by their willingness to move the property back and this is a tough property to develop. Commissioner Wittenkeller supported the project.

Commissioner Jochum is in agreement with Commissioner Wittenkeller and noted that the distance between the windows on the project and those of the neighbors is adequate and that the project does not require any variances.

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Commissioner Fernandez believed that there are no privacy issues or view issues and he supported the project.

Commissioner House supported the project. She believed that the applicants have presented many revisions in order that they might meet some of the neighbors' needs. Vice Chair Sisich is in agreement.

Commissioner Zwick said that the neighbors disputed the project because they have already approved a design that had more to offer them. He believed that the applicant could and should move the front room, which would not require a great deal of effort and would bring the massing more in line with the approved design, or at least move the house back 2'.

Chair Harris agreed that the applicants have worked to appease some of their neighbors' objections but he believed that there are further solutions, including moving the house back and raising the sill height on two windows if the neighbors thought it worthwhile. He supported the condition of approval that the tree is relocated under the care of a qualified arborist.

M/s House/Jochum and unanimously passed (7-0) to approve the project based on the findings and conditions as set forth in the staff report with the added amendment that the house be moved back 2'.

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

3. **DR-0338/U-0317 – Ron and Nancy Akmon, 1509 and 1513 San Anselmo Avenue, APN 007-011-24, Nos. 1509 and 1513: Design review to change the exterior color. No.1513: Minor modifications to the building, and use permit to change previous use of a commercial space (PX Market) to one living unit, located within the C-1 zoning district. (Staff person: Chambers)**

Chair Zwick recused himself from the podium and Planner Chambers presented the staff report.

In response to Commissioner Jochum, Ms. Chambers confirmed that had it been a mixed-use project then 9 parking spaces would have been required, whereas 5 are required for a multi family use, ie. the 3 units being proposed.

In response to Chair Harris, Planning Director Bell said that a conditional use permit can require extra parking spaces at the discretion of the Commission.

Nancy Akmon, Applicant, said that an extra parking space has been provided and the colors posted at the site.

In response to Chair Harris, Larry Warner, representing the applicant, said that he had spoken with neighbors with regard to the parking issue and they seemed appeased. He believed that as much parking as can be reasonably expected has been provided for the site and noted that there are other buildings for which parking has not been provided.

Thomas Gibbs, 16 Florence Avenue, objected to the disappearance of the retail establishment and the conversion of the property to living space. He did not think that there is sufficient parking. In his experience as a builder, Mr. Gibbs did not believe it would cost less to convert the property into residential units than to make the necessary improvements for a commercial use.

Louise Matthews, 72 Foothill Road, expressed surprise that that there is not a space for each unit and an extra space for guests. As a result, Ms. Matthews said that San Anselmo Avenue and Florence Avenue will become even more congested with parked cars.

Chair Harris asked Mr. Warner if any effort had been made towards establishing a mixed used project. Mr. Warner replied that the cost of upgrading a commercial property to meet fire regulations and building codes would be prohibitive.

In response to Commissioner Jochum, Mr. Warner said that he had not discussed with the Building Department their specific requirements. However, he believed that in addition to the fire sprinkler system, the building code would require new windows, full insulation, new heating system and numerous other items that would all add an additional \$20,000 to the cost of putting in a sprinkler system.

In response to Commissioner Jochum, Ms. Chamber confirmed that that parking is allowed on one side of Florence but otherwise there were no restrictions. Commissioner Jochum believed that the project could provide sufficient parking by the elimination of a bedroom and noted that that other properties in the area might become conversions, thus exacerbating the problem. Commissioner Jochum believed that more parking is necessary than the planning code dictates. The streets are narrow and he thought it would be unreasonable to expect 2 cars to be parked on each side of the street and still have clearance. He did not think that there is sufficient parking for this kind of use.

Commissioner Wittenkeller said that a mixed use operation is desirable but that other options need to be explored if it is not economically viable. Furthermore, Mr Wittenkeller noted that the zoning will not change. He said that the parking situation is not ideal but that residential space is needed.

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Commissioner Fernandez is in favor of the project and noted that PX Market has not been supported by shoppers.

Vice Chair Sisich said that a residential project is appropriate. He believed that vehicular access should not be too much of a problem although he noted that the street is narrow. He would support the provision of another parking space. Commissioner House had nothing to add.

In response to Chair Harris, Ms. Chambers said that the Public Works Director had not studied the parking configuration because it had already been assessed under the previous use permit. However, it could be made a condition of approval. Chair Harris believed that the Town's Code provides for insufficient parking. He said that parking will have a detrimental effect on the neighborhood and he would like the applicant to use the remainder of the back yard for parking space. Furthermore, Chair Harris believed that it would be appropriate to install a round mirror facing Florence and he would like the Public Works Director to approve the parking plan.

M/s Harris/Sisich and passed (5-1:Noe Jochum) to approve the project based on the findings and conditions as set forth in the staff report, with the following added conditions:

1. The on-site parking configuration shall be reviewed by the Public Works Director to ensure the viability of ingress/egress.
2. Coordinate the removal of the green zone fronting San Anselmo Avenue with the Public Works Director due to the change in use from commercial to residential.
3. Mirrors shall be installed so vehicles traveling on Florence Avenue can see the cars backing out of the driveway. The location shall be approved by the Public Works Director.

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

4. Z-0301 – TOWN OF SAN ANSELMO, Zoning Ordinance Amendments to the Merger of Parcels Ordinance, Title 10, Chapter 3, Article 27. (Staff person: Wight)

Senior Planner Wight presented the staff report and noted that the Commission would be recommending the ordinance to the Town Council. Ms. Wight said that she had received a letter from a resident at 72 Foothill Road in which there are several questions which staff would not answer at the meeting.

In response to Louise Matthews, 72 Foothill Road, Ms. Wight confirmed that a Public Notice was placed in the newspaper. Ms. Matthews expressed concern about this item.

Commissioner Wittenkeller noted that the Commission was required to make a recommendation, only, to the Town Council and suggested Ms. Matthews address her concerns to the Town Council. Commissioner Wittenkeller believed that this was a matter of housekeeping only. Commissioner Fernandez was in agreement.

M/s House/Wittenkeller and unanimously passed (7-0) to recommend that the Town Council approve the Zoning Ordinance Amendments. It will be heard at the Town Council Meeting on November 25, 2003.

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

This item was removed from the agenda and will be heard at the next meeting on November 17, 2003.

6. Gary Marsh, 57 Medway Road, APN 005-154-06, 1) third story variance (Code: 2 stories maximum); 2) setback variance to add a second and third story addition within 2'-6" of the south side property line (Code: 8'); 3) setback variance to add a second story open deck within 3' of the south side property line (Code: 6'); 4) flatland design review of the second and third story addition totaling ±89---7 square feet; and 5) setback variance to add an exterior stairway and enclosed entry within 5' of the north side property line (Code: entry: 8'/stairs: 6'), located within the R-1 zoning district. (Staff person: Chambers)

Commissioner Zwick recused himself from the podium and Planner Chambers presented the staff report.

Gary Marsh, applicant, told the Commission that they enjoyed living in the area and wished to enlarge their home. His wife, Kim Pipkin, explained how the new design is in keeping with the character of the house. She presented letters of support from neighbors and noted that the proposed upper level will not impair light, shadow and air on neighboring properties. Ms. Pipkin said they were not requesting a great deal of space.

Keith Snyder, architect, presented a model of the new development to the Commission. He believed that the site is narrow and that they have designed a second story in the most suitable location. Mr. Snyder explained that the new design is essentially a second story but which Planning Codes have deemed a third story. In response to Chair Harris, he believed that the house would not be so attractive if a lower story were extended forward towards the street. Mr. Snyder believed that there was no suitable solution to avoid a story. In further response to Chair Harris, he explained that he chose not to extend northwards

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because the house is much closer to the neighbor in that direction. Furthermore, the lot size prevented such a design

In response to Chair Harris, Mr. Snyder explained that the shape of the lot and the house could be considered a special circumstance because the house was built before setback requirements were imposed. He said it might be easier to tear down the existing house and design a house that would fit within the boundaries of the lot. However, this would not be desirable for the owners or the neighbors. Mr. Snyder further noted that the back garden is attractively landscaped with a number of mature trees.

Kathleen Sirkin, 49 Medway Rd, and Joe Hartnett, 58 Medway Rd, believed that the project will minimally impact the neighborhood and supported the applicants.

Vice Chair Sisich could support the project because it did not appear to be detrimental to the community. He believed that special circumstances were the narrowness of the lot and the potential loss of heritage trees if the addition were placed elsewhere. Furthermore, the scale is not inappropriate for the neighborhood.

Commissioner House approved of the design and believed that special circumstances were the narrowness of the lot and the existence of mature trees. She also approved of the house being stepped back.

Commissioner Jochum noted that the 3rd story is a technicality and that the project is not out of scale with the neighborhood. Furthermore, he is not concerned with the size of the house. However, the setback issues for the south side yard setbacks are a problem for which he felt there were solutions. Commissioner Jochum said that he could make the findings for the entry and exterior stairway on the north side setbacks due to the distance between the applicant's structure and the neighbors.

Commissioner Wittenkeller said that too many variances were required. He would like the "third" story setback to meet the required setbacks and, overall, would like an alternative design to be presented.

Commissioner Fernandez was unable to support the project as presented, given the number of variances requested.

Chair Harris liked the design but noted that by granting 4 variances, the house would be the highest structure on the hill. Chair Harris believed that a new design would be possible with fewer or no variances. He would like the designer to present other options but noted that he might approve the present design if the architect is convincing in his argument that none other is possible. Chair Harris noted that the house is not small and the increase fairly substantial.

M/s Fernandez/Wittenkeller and unanimously passed (6-0) to continue the project to the meeting of December 1, 2003.

7. **V-0349, Margot and Chris Enbom, 39 Belle Avenue, APN 007-302-04**, a setback variance to construct a garage within 2' of both the east side and rear property lines (Code: side: 8'/rear: 20'); a parking variance to remove an existing legal parking space and replace it with the new garage space; and a setback variance for a pergola to be 9.5' above grade and located within 0' of the east side property line (Code: 8'), located within the R-1 zoning district. (Staff person: Wight)

The Commission waived reading of the staff report. Hank Taylor, architect for the project, explained why he disagreed with the finding on the rear setback. Commissioner House noted that other properties in the area have garages that are built in a similar location to the one where the applicant wants to build his garage and said that she could make findings to approve the project.

In response to Chair Harris, Mr. Taylor said there is room for several cars in the driveway. Commissioner Zwick suggested that the garage be built in the location of the second space, with that space taking the place of the new garage location. In response, Mr. Taylor said that this would have more impact on the neighboring property.

In response to Chair Harris, Mr. Taylor said that the only variance being requested was for the garage. In further response to Chair Harris, Mr. Taylor said that the location of the property and the primary neighbor are sufficient for the granting of a variance.

Commissioner Jochum suggested that the garage be built elsewhere in order to avoid the necessity of a variance. A logical reason would be needed for him to support the variance. He believed that what was lacking was the discretion to maintain the design integrity of the neighborhood.

Commissioner Wittenkeller suggested that a variance might be granted if the long, narrow shape of the lot restricted building. Thus, such a lot could be a unique circumstance that would allow the variance. However, Commissioner Zwick believed that the lot was long, rectangular and 40' wide, which did not offer a special circumstance in his opinion.

The applicant, Christ Enbom, said that he would be the only homeowner in the area with a garage in the middle of his back yard if the variance was not granted and he believed that the current location is suitable for the lot.

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In response to Commissioner House, Ms. Wight explained that the former owners demolished their home and were required to build a parking pad and house that met the setbacks. Thus, legal parking can be provided without a variance and noted that the Ordinance does not require covered parking.

Commissioner Zwick noted that the former owners could have built the house in a different location, or with a garage on the first floor when they rebuilt instead of choosing the present location and a parking pad. The present applicants are different owners but they bought the house understanding the zoning restrictions.

Commissioner Wittenkeller believed that the current owners should not be penalized by the choices the former owner made. He did not think this would compromise the ordinance. Once the vote was taken, Commissioner Wittenkeller suggested the applicant appeal to the Council because the vote was close.

Chair Harris noted that findings need to be made, although it might seem absurd in this instance. He believed that the integrity of the process was at stake more than the garage.

M/s Wittenkeller/Fernandez and failed (3-4 Noes: Jochum, Harris, Zwick, Sisich) to approve the project. Chair Harris advised all parties of interest of the 10-day appeal period to the Town Council.

8. V-0350/DR-0340 – Bryan Beaver and Heather Neely, 64 Terrace Avenue, APN 006-212-55, flatland design review of a ±670 square foot second story addition and street side yard variance to construct a porch enclosure, upper story and roof encroachment to be within ±3' of the property line (Code: 12') located within the R-1 zoning district. (Staff person: Bell)

Planning Director Bell presented the report. He noted that the variance had an impact on Terrace Avenue, only, and that other properties do not meet setback requirements. Mr. Bell told the Commission that a jurisdictional line was unique to the plot.

In response to Chair Harris, Mr. Bell said that there was no single item that justified a variance but that he believed a variety of issues combined to form a special circumstance.

In response to Chair Harris, Morgan Hall, architect for the project, showed the Commission where the variance was being sought on the plans. He noted that the size increase is not huge and a heritage tree has been taken into consideration.

Commissioner Jochum noted that the intrusion into the setbacks is minor and the staff report has made appropriate findings.

M/s Jochum/Fernandez and passed (6-1) 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.

E. GENERAL DISCUSSION

F. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

100 Forbes Avenue and 68 Bennit Avenue will be heard by the Town Council.

G. ADJOURNMENT TO THE MEETING ON MONDAY NOVEMBER 17, 2003

The Meeting was adjourned at 11.05pm.



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