

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF MAY 3, 2004**

CALL TO ORDER

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

OPEN TIME FOR PUBLIC EXPRESSION

No one spoke.

PUBLIC HEARING ITEMS

CONSENT AGENDA

1. **MINUTES – April 19, 2004**
2. **V-0415 – Richard Delman and Lucy Vargas, 18 Crest Road, APN 006-221-20**, setback variance to install approximately 30 lineal feet of retaining wall in excess of 4' in height within 9" ± of the front property line, on property located in the R-1 zoning district (above 150 msl)(staff: Bell).

M/s House/Fernandez, and unanimously passed to approve Consent. The audience was advised of the ten-day appeal period to the Town Council.

REGULAR AGENDA

3. **V-0416/U-0405 - Patricia Johnstone, 125 Redwood Road, APN 007-083-03**, variance amendments to 1) allow an existing accessory structure of 26.5'x26' (previously approved as 24'x26') within 5' of the south side yard (code:8'); and 2) allow an existing lower level floor of an accessory building within 8' of the east property line (Savannah Avenue) (Code:20') and 5' of the south side yard, previously approved within 14' of the east property line and 5' of the south side yard; variance to allow the creation of a second residential unit within 8' of the east property line (Savannah Avenue)(code:20') and 5' of the southerly side yard, within an existing accessory building; variance to allow an existing access stairway/deck within 2' of the southerly side yard; Use Permit to allow exceptions to the standards for residential 2nd units; and variance to allow 3 parking spaces for the property where 4 spaces are required (at or above 150msl) on property located in the R-1 zoning district (above 150 msl) (staff: Bell).

Planning Director Bell presented the staff report and responded to questions by the Commission as follows:

- Denial of the lower floor would require the space to be reconstructed back to what was originally approved in 1985.
- Although he was not certain who the owner of the property was in 1985 when the original permit was issued, Ms. Johnstone was at the meeting in 1985 and is present now.
- The required four-car parking is necessitated by the property being at or above 150 msl, which requires three-car parking and one additional parking space for the second unit, for a total of four car on-site parking spaces.]

Commissioner House commented that the 1985 Town Council minutes stated that the building could not be used as a second unit.

Len Rifkind, attorney representing the applicant, said the zoning ordinance requires 4 parking spaces. However, the Housing Element just adopted encourages and mandates that parking is reviewed on a case by case basis and encourages second units. The accessory structure has two-car parking. He said the lower level plans approved in 1985 had access to the lower level and electrical. The added space was for structural. There were ongoing inspections on the space. Nothing was bootlegged in. The litigation has been the use of upper level. If they can get a second unit approved, the litigation would be over.

Mr. Rifkind explained in 1986 a letter written by the former Town Administrator, Mike Garvey, stated Ms. Johnstone could use the upper level of the accessory structure for residential purposes but not have cooking facilities. The law has changed regarding second units and a new 2nd unit ordinance was adopted. Also pending is additional 2nd unit legislation. Ms. Johnstone is willing to deed restrict the second unit to a low-income tenant. He submitted a letter dated May 3, 2004 addressed to Pascal Sisich, Chair, addressing his formal comments.

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF MAY 3, 2004**

Ms. Johnstone, applicant, provided a copy of the approved plans that showed the access door. She stated that the Planning Commission required a landing for the access. The structure was only extended 6 feet. The Building Inspector wanted it extended to hold the washer and dryer. She has also been told by the current Building Official that the floor should be extended more because of the electrical panel. Ms. Johnstone stated that the primary objection is to a second unit, which she has occupied for many years. She agrees that parking may be substandard but she has more parking than many in her neighborhood and that an accommodation should be made for renting to low income people. She presented photographs of parking situations for other properties in the neighborhood. She noted that some properties were permitted additions as well as second units with substandard parking.

Regarding screening, Ms. Johnstone stated she has adequate screening but is happy to put in more bamboo. Regarding the two-foot access on the south side, she would be willing to deal with the windows but the neighbor affected was the contractor who built the addition and was familiar with the view from the windows.

In response to questions by the Commission, Ms. Johnstone responded as follows:

- She moved out of the accessory structure and is now living in the main dwelling and she would continue to live in the main dwelling if she could get approval for the second unit.
- Her mother owned the property in 1985. It was built from a log cabin kit and it went on from there. It is possible that it was adjusted in the final plans but that is not on the Town microfiche.

Alan Mooers, 20 Savannah, stated he observed this process for the last 20 years and it has been a thorn in the side of all the neighbors. The street is narrow with no turnaround and he is concerned about parking. It would set bad precedent if this unit, or any other in town, were approved to have 42% over the main living unit. The lower unit has been his main concern. It should be removed entirely and restored to the originally allowed storage unit, with no bathrooms etc. He agrees with the staff report. The structure is too close to Savannah and opposes a variance to add the increase in size and disagrees with the height variance. The process has been an affront to the Council, Planning Commission and the Town for the amount spent on litigation to require Ms. Johnstone to comply with town requests.

Roland Niemcewicz, 120 Redwood, agreed with the previous speaker. He noted that his parking is legal and he can place three cars on his lot. He stated that there are 2: 2x12's sticking out from the side of the structure which have been there for years and wants to know what the intent is for that.

Kyle Thayerr, 38 Savannah, said he just moved in but feels the application should be denied because parking is an issue on a very narrow street. If the original unit was approved as a storage unit it is wrong to let this be converted into a second unit.

Cassidy Bell, Nevada City, is in support of Pat Johnstone, stating that he might be the tenant for the unit if approved, which would allow him to come back to Marin to live in affordable housing.

Robert Franz, 99 Redwood Road, is in support of Pat Johnstone and the second unit.

Peggy Dodge, 25 Allyn Avenue, said the second unit is to obtain low-income rental and workforce housing in Marin County. The existing structure has adequate parking with three parking spaces. It would be reasonable to look at this project in terms of affordable housing.

Bess Niemcewicz, 120 Redwood Road, said this is a blight disregard of the code and the town's ordinance. This was done with knowledge that the envelope has been pushed. She stated that if this is approved there would be many requests for other illegal second units to be approved. They should not be approved at the expense of the neighborhood.

Jacqueline Ryan, 122 and 135 Redwood Road, does not want the project approved. There are three units on the property. She does not want it passed for the safety of the existing neighbors.

Maria Thayer, 38 Savannah, stated that she agrees about affordable housing but approval of this project is not the way to gain affordable housing.

Katherine Donnery, lives next to the accessory structure and stated she has three-car parking on her lot. Savannah is very narrow; one car wide, and emergency vehicles cannot get by sometimes. She does support affordable housing but does not want something that was built illegally to be approved.

Pat Johnstone responded to the public testimony, stating there is also a petition of people along Redwood Road who do support the project. She has lived on the property for 10 years, before there became problems with the neighborhood.

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF MAY 3, 2004**

Ms. Johnstone responded to questions by the Commission as follows:

- She affirmed that the 1986 Garvey letter stated the extending joists were to be sawed off from the building. However, she explained that they may be used as a trellis.
- There is a one-car garage on Redwood.
- Regarding what attempts have been made to add parking, she said that because of the easement, it could be on the east side and similar to the way it is for No. 32. She could also extend the deck out if necessary. The deck is about 31' deep with the easement.
- She has not received any cost estimates to bring the accessory structure up to town approval. Because it is a log cabin, she is not sure of the cost.
- With regard to how parking would be allocated for the main unit and the second unit, she would need one parking space for the main unit.

Mr. Rifkind stated that in his letter dated May 3, 2004, he points out housing objections and that we may lose a housing opportunity because of the lack of the fourth parking space. Regarding the findings of approval, it seems virtually impossible to take off the extra 2'. Regarding the lower floor level, it is 72 square feet of space. If necessary, the washer/dryer can be removed. The main house and second unit is only 1,500 square feet. It is not an intensively developed site. The staircase is necessary for health and safety reasons.

The hearing was closed to public testimony.

Commissioner House stated she believes strongly in second units and typically the Commission will do whatever they can to support second units. However, she supports the staff report of denial of the second unit. The Town Council meeting minutes in 1985 indicate recommending against the second unit. She cited the minutes of the 1985 Council minutes, stating the Town Administrator at the time, Mr. Garvey said it can be used as an extended bedroom for the family members but not for anyone else. The accessory structure was not built according to plans and not with the intent of it being a second unit at that time. She is not able to make the findings of approval.

Commissioner Harris asked staff for clarification on the recently adopted Housing Element.

Mr. Bell explained that the Town Housing Element has been approved. The Element encourages 2nd units and that is why the Town developed the ordinance. Regarding, "where appropriate", the parking remained an issue because it is substandard in number and this is a narrow street. Therefore, staff has to recommend denial of the second unit.

Commissioner Harris asked staff to comment on Mr. Rifkind's comment about housing objectives to which Mr. Bell explained that the next amendment would be in 5 years. However, the staff would not recommend approval of second residential living units where it a detriment to the neighborhood. Regarding size of units, the standards call for 500 square foot maximum or 30% of the main dwelling.

Commissioner Harris said he does not like after-the-fact applications. Clearly, there have been a number of instances that there are suspicions the applicant is not playing by the rule. There is no way to hold people accountable unless this is by abatement proceedings, which is very costly. The applicant is asking for so many variances and exceptions. He is not convinced however, that allowing this as a second unit exacerbates the parking. The parking on this property is comparable to others. However, making a finding to support parking is another situation. This is in some measure an opportunity, although he recognizes the bitterness. He would like to see if they could bring the structure more into compliance and once those conditions are met, the applicant can come back and ask for a second unit.

Commissioner Jochum said the property is really poorly planned and just developed ad hoc over time. Parking on such a steep site makes sharing of parking a real problem. He believes in the opportunity of allowing second units, but the town must maintain reasonable town structures and he is strongly in favor of supporting the staff report.

Commissioner Fernandez said that while he supports second units, he does not feel this is the right place for a second unit. He noted that he objects to receiving a 9-page document just prior to the meeting tonight from Mr. Rifkind without adequate time to review it.

Chair Sisich said he could make the case for a second unit. This 2nd unit has two full spaces on Savannah and he does not see how it will create additional parking problems. He feels the history with the neighbors is getting in the way and the applicant is being penalized. He stated that the town cannot say they are encouraging 2nd units and then not approving a second unit to the applicant. There are three parking spaces on this property. The town has approved accessory buildings as second units which were in worse shape.

Commissioner Zwick said he falls between Commissioner Sisich and Commissioner Harris. The second unit comes up often and the Commission is very much in favor of them but there are rules. He is sorry about the bad blood but there has been a long history. He really liked the idea of bringing the unit into compliance and then they can come back. There appears to be reluctance in

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF MAY 3, 2004**

the past. He would approve a second unit if they provide better parking and bring the building more into compliance to what was originally approved. That would work for him.

M/s House/Fernancez, to move the staff report;

Ayes: House/Fernandez/Jochum

Noes: Sisich/Zwick/Harris

Motion failed.

M/s Harris/Zwick, to continue the application to allow the applicant time to gather information and information with respect to the proposals made in the staff report, and have the applicant come back after having consulted with professionals to determine what it would take costwise to satisfy the Planning Commission.

Ayes: Zwick, Harris, Sisich

Noes: House, Jochun, Fernandez

Motion failed

M/ House, to continue the application until the applicant can bring everything into compliance and meet all codes

Died for lack of a second.

Commissioner Zwick said they could come back with variance requests if they need them.

Commissioner Harris stated he would like to see the applicant meet the 9 conditions as set forth in the staff report. He felt there is an opportunity for a second unit but the applicant has to comply with the 9 conditions listed in the staff report but at this time the applicant has done nothing. He feels there should be a compromise on both sides; talk to the neighbors; talk about feasibility for change to the building; and look at parking.

M/s Harris/Zwick, to continue the application for one month so the applicant can meet with neighbors, pursue as appropriate, ways to satisfy the 9 conditions.

Mr. Bell said a decision would have to be made at the June 7th meeting due to the Streamlining Act.

Mr. Rifkind said they would agree to a 90-day extenuation of the Streamlining Act. Regarding the timeframe on the late letter he submitted, he was waiting for the staff report before he responded. They will do everything in their power to meet with the planning staff and meet with the neighbors and will bring back a better application in 30 days.

In response to Commissioner Zwick, Planning Director Bell stated that plans of record are dated 5/14/85, which were approved by the Council. It allowed a lower floor area and did not have a primary access, only a crawl space; was setback 14' from Savannah and they allowed the screening in of the crawl space.

Harris to withdraw his previous motion.

M/s Zwick/Harris, to continue the application to June 7, 2004, so the applicant can talk with the neighbors, address items 1-9 and 1-4 based on the 1985 approved plans.

No: House, Fernandez/Jochum

Ayes: Zwick/Harris/Sisich

Commissioner House said the continuance would be just an exercise and will not happen. If they do make changes then they can come back with another application.

Commissioner Fernandez said for the sake of moving the application along he will change his vote to yes.

Ayes: Zwick, Harris, Sisich/Fernandez

No: Jochum, House

Motion carried.

4. V-0417/U-0406/DR-0411 – Ross Valley Ecumencial Housing Association (K. Crecelius), 61 Woodland Road, APN 007-282-01, Use permit to demolish more than 50 percent of an existing house and establish a group home; setback variances to allow construction of a dwelling within 10 feet of the front yard setback (code:20') and within 10' of the west side yard(code:12'); parking variance to allow required parking within +/-1' of the rear yard property line (code:20'); and flatland design review to consider construction of a 1,985+/- square foot upper level in conjunction with a new dwelling of approximately 3,782 square feet total, located on property within the R-2 zoning district (staff: Bell).

Planning Director Bell presented the staff report.

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF MAY 3, 2004**

Jerry Knecht, President of Ross Valley Ecumenical Housing, introduced the Board members as well as a founder, Mr. Singh. Several members of the audience rose in support of the project. He noted that this is an independent living facility and has always received Town support. They have tried for the last 2 1/2 years to find a suitable location and they have an opportunity to purchase 61 Woodland. They will house 10 seniors in this location. They brought the plans to the neighbors so feedback could be achieved at an early date. They also set up a meeting at Tam House on a Saturday and only one person came. There has not been much constructive feedback from the neighbors, only that they do not want it in this location. He stated they need a 10-person house to be feasible and the rooms cannot be reduced in size. An elevator is required for seniors. The 39.1% lot coverage is less projected than many in the neighborhood. The height is less than the permitted 30'. They are surrounded by higher density uses. They will have a limit on parking of three cars for the residents but will have parking for 6 cars; the additional three will be used for staff and visitors. If this property were purchased for a single-family use, the structure would be as large, if not larger. They moved it 2' from Cedar to accommodate the neighbor.

Steve Harnsberger, 54 Woodland Avenue; Lloyd Stasiowski, 38 Woodland Avenue; Tim and Agnes Heiman, 59 Woodland Avenue; Andre Riazance, 60 Woodland Avenue; Peter Cowperthwaite, 87 Woodland Avenue, Maryanne Cowperthwaite, Oak Avenue, Jeff Potter, 54/56 Woodland Avenue; Jim Wigly, 48 Woodland Avenue; Laurie Mc Innis, 117 Woodland Avenue; Ada Fitzsimmons, 20 Woodland Avenue; spoke in opposition of the project for the following reasons:

- A petition from 75 neighbors opposing the project for the size of the building scale, not the housing.
- The lot is substandard and the house is too large for the lot.
- There should be a balance for the needs of the seniors as well as the neighbors. Nearly all single family homes on Woodland oppose the size of the structure.
- Tam House One was not opposed by the community but the lot is 50% larger and required no variances.
- The design as well as the size is not in character with the neighborhood.
- Supports senior housing but the project is too large and a single family owner would not get the same consideration for such a large structure in the lot.
- Asking for too many variances.
- Cedar is not accessible for emergency vehicles and is concerned about the impact of emergency vehicles with 10 seniors in the house.
- If parking spaces are full on Woodland Avenue, it would not be able to get traffic through.
- The proposed lot is zoned R-1 because of the small lot size compared to the other lots in the neighborhood.
- They would be paving 20% of the lot because of parking.
- The density is 6 units per acre; at 5,000 square feet, this is less than 1/10th or an acre, or one unit, six people maximum.
- Traffic has increased due to Wade Thomas, San Anselmo Avenue and many people park on Woodland.

Mr. Singh, Tam House resident; Barbara Collins, 111 San Gabriel, Fairfax; Roberta Michaels, 148 Calumet Avenue, Jan Dean, Tam House resident; spoke in favor of the project:

- Supports affordable housing and this is one of the few sites available.
- Project cannot be downsized. If it gets smaller, the unit costs get more expensive.
- Supports this type of housing in San Anselmo.
- Parking is a problem all over and assistant living is necessary for seniors at an affordable rate.

Mr. Knecht presented a rendering of the project. He is willing to change the second story windows into higher elevation windows to provide light but not view from the media room and would provide privacy for the adjacent neighbor at 59 Woodland Avenue. Senior usage of the roadways is minimal compared to the usage of a single-family house. Tam House One is 44% lot coverage, not 39% that is being applied for on Woodland. He said neighbors are in support but they are not willing to go out of their way to support it in their backyard. He does not see anything to be gained by making any changes. One of the incentives of the Housing Element is to provide flexibility. The Town Council has given its' okay for this project. They have looked at all the potential sites listed in the Housing Element but have not been successful in obtaining them.

In response to Commission questions, Mr. Knecht said there are almost no deliveries. One person buys groceries. The cook does the cleaning in the common areas and Whistle Stop comes twice a day. There are twelve residents at Tam House One with five parking spaces, but only can really accommodate 3 cars. Four of the residents have cars.

Commissioner House stated she is in favor of low-income housing and affordable housing. The Commission is pleased when the applicants talk to the neighbors. If a single family came in with this project she would vote against it. However, because this is for seniors, they are a low impact group. This is an R-1 lot but surrounded by other zoning. If this was totally surrounded by R-1 she is not sure she could support it. Because of the mixed zones, she is in favor of it. Due to neighbor's concerns about excessive truck traffic along Woodland, she wants the Town to look at

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF MAY 3, 2004**

this. She stated there is no view ordinance in Town. Since the applicant is willing to raise the sill height, she supports this. The project has been moved 2' at the request of the neighbor.

Commissioner Zwick said he is in support of the project and this is a nice result in ingenuity.

Commissioner Harris stated that this is an ideal spot for this type of use and suitable for pedestrian traffic for the seniors. Ross Avenue has very similar apartment buildings. He understands complaints about traffic but this project will not add significant traffic. There is no fire safety issue due to this project. There no view ordinance in the flatland and it is not proper to go into the analysis. The windows are an issue and it sounds like there is a willingness to raise the sill height. If that doesn't work, he asked them to consider translucent windows. He would like more articulation along Cedar to break up the mass. And would like to see the plate height reduced if possible. It is very difficult to come up with lot coverage variance findings. He would like to see if there is some way to shrink the size of the lot to meet the lot coverage.

Commissioner Jochum said this is a good location for this project. The Town planning concept of keeping this sort of use in common areas is good. It is much more problematic in other neighborhoods. Regarding the variances for front yard, there is a strong precedent along the street. It is about 247 square feet over the lot coverage, which is just a little over the size of a bedroom. The town is trying to get low income housing and one additional bedroom would be easy to support. Many of the streets in town are substandard but this project has been well planned to not add to the existing problem. With the restrictions on the number of cars per residents, plus the additional parking for guests and staff, it is a thoughtful plan.

Commissioner Fernandez does favor the project and does not think the traffic is that much of a problem. He suggests the town look into the problem about delivery trucks accessing Woodland.

Chair Sisich said that this is the most benign special needs population in terms of impact. This housing will be deeply affordable. There is a terrible lack of affordable senior housing in Marin. The most impacted is the neighbor next door but the height is 29' at the highest point.

Mr. Bell stated that the lot coverage variance was not noticed property so the project must be continued to the next meeting and can be placed on consent.

M/s House/Fernandez, and passed (5-1 Abstain: Harris), to continue the application to May 17, 2004 to re-notice for lot coverage variance which should be placed on consent agenda; modification to second story windows as stated by the applicant should be reflected in the modified plans. Recommend staff refer the delivery truck situation to the Traffic Safety Committee for review.

5. **DR-0412/V-0418 - Antje Froehler, 48 Bennit Avenue, APN 005-092-19**, parking variance for one of the existing three required on-site parking spaces (in conjunction with a bedroom addition) to be substandard in width; setback design review of a second story addition to be within 6'2" of the north side property line; and hillside design review of a 408 square foot second story addition, first and second story decks and stairs totaling 396 square feet, on property located within the R-1 zoning district (above 150 msl) (staff: Wight).

Ms. Wight presented the staff report.

Antje Froehler, applicant, explained the project. She noted that the carport can fit two compact spaces. The carport could be widened but it would be difficult because it is so steep and she would have to replace the deck structurally. Regarding the colors, she is in favor of the staff report to put up samples. She has shown the project to the neighbors and met only happy neighbors. The story poles from above does not seem to be an impact. The trim will be a dark brown aluminum clad. She does not have a cost estimate to widen the carport. She has modified the metal roof to asphalt shingle.

Commissioner Zwick supports the project and staff report.

Commissioner House can support the staff report.

Commissioner Harris said there is enough variety on the block to support this project but he would like more information on what it would take to widen the carport to improve the off street parking.

Commissioner Jochum said she might consider a parking space to the left side, cut into the hill although it would require a variance.

Commissioner Fernandez supported the project.

Commissioner Zwick stated that if she widened the carport she would get approval tonight.

M/s Harris/Fernandez, and unanimously passed, to continue the applicant to the meeting of to May 17 to see the availability of a third parking space.

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF MAY 3, 2004**

ITEMS FROM PLANNING COMMISSION

ITEMS FROM STAFF

- Staff will be coming to the Commission in the near future with a new sign ordinance.
- 1320 San Anselmo Avenue was appealed.
- Planning subcommittee is 1:00 on Friday.

ADJOURNMENT TO THE MEETING ON MONDAY MAY 17, 2004

The meeting was adjourned at 11:00 p.m.

**BARBARA CHAMBERS
ASSISTANT PLANNER**