

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF JULY 20, 2009**

Commissioners' present: Brown, Harris, Overberger, Sisich, Schinner
Commissioner's Absent: Krebs, Zwick

OPEN TIME FOR PUBLIC EXPRESSION

No one spoke during this time.

CONTINUED ITEMS

1. **DR-0904/V-0903 – Alice Tompkins, 24 Cypress Road, APN 006-113-14,** Hillside Design Review and Setback Variance to construct a one car, ±239 square foot garage within 2'-6" of the north side property line and 6" of the rear property line (Code: 8' and 20' respectively); and for the two uncovered parking spaces to be substandard in length between 16'-4" and 18'-3" (Code: 19'), located within the R-1 zoning district above 150' msl elevation. (Staff: Chambers)
CONTINUED TO 9/7/09
2. **V- 0906 - Alan Flaks, 360 Redwood Road, APN 007-095-50,** Sideyard Setback Variance for an existing unpermitted 334 square foot bedroom addition within 8 inches ± of the southwest side property line (Code: 8') and a parking variance for one of the three required parking spaces to encroach at the maximum approximately 2 feet 6 inches into the public right of way. (Staff: Boyle)
CONTINUED TO 8/3/2009

PUBLIC HEARING ITEMS

CONSENT AGENDA

1. **Minutes – July 6, 2009**

M/s Brown/Schinner, and passed (4-0 Abstain: Harris) to approve the minutes as written.

REGULAR AGENDA

2. **UP-0906/DR-0905 – Edmund B MacDonald, 14 Greenfield Avenue, APN 006-251-07 and 25,** Design Review to add an exterior door and exterior windows on the north and west elevations and Use Permits for a 3,062 square foot Pilates exercise studio considered a private school and a 2,937 square foot retail art supply store (Code requires a use permit for a change of use which exceeds 1,200 square feet) located in the C-2 Zoning District (a lot merger of the two parcels will be processed administratively as a condition of any design review approval) (Staff: Boyle)

Boyle presented the staff report, noting that staff is able to make the findings to support the project.

Harris asked about the bio diesel operation located on the same property, to which Boyle said there is no change in that use.

Schinner said he doesn't think the Town can take into consideration similar uses. Hurd said there could be a cap on the number of uses however, in this case, the findings can be made to support the project.

In response to Brown, Boyle said the exterior stairs are used so they would not have to go through one office to get to the upper floor.

Mohamad Aljundi, Smith Lane, is concerned about the traffic on his street and requests the police re-strip the street near his front door.

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Ned MacDonald, applicant, explained the proposed tenants would be a framing shop and art supply, along with a Pilate studio. He noted that the revenue generated from the sale of artwork will be a benefit to the tax base of San Anselmo.

Schinner asked about the traffic concerns for the resident on Smith Lane, such as solutions for signage etc. MacDonald said he would look at any concerns within reason.

Overberger suggested a no parking or red zone next to the neighbor's residence. MacDonald said it is his understanding that the neighbor parks in that spot, which is right outside his front door.

Overberger suggested the applicant work with staff to come up with a solution.

Brown asked if the street could be chained off. MacDonald said he does not need access from Smith Lane however Greenfield is one way in front of his building. Access could also be from Sir Francis Drake but it would be awkward if Smith Lane is closed off.

Sisich asked if there has ever been a parking conflict for 14 Greenfield. MacDonald said he has more parking than he needs and there is a good deal of parking on the street. He said he also believes his parking spaces are used at night by people using the downtown area.

Joyce Brown, Elan Fitness, Greenfield Avenue, has concerns about the art supply store going in such close proximity of Perry's Art Supply. She understands the need for business in Town but Greenfield is now the in-place for new businesses, which means parking is becoming a problem. She noted that there are several businesses that have classes, which increases traffic. She noted that Marinita's restaurant patrons are also parking on Greenfield even though the restaurant is on Sir Francis Drake.

Aruna, Greenfield Avenue, is in support of the business. Even though we all have classes, we are very diverse.

The public hearing was closed.

Schinner is in favor of the staff report. This is one of the businesses that does have on-site parking. It is not in our prevue to constrain any business.

Brown also supports the staff report, stating he wants to support as many businesses that want to come into San Anselmo. While there are parking issues on Greenfield, this property has ample on-site parking. This use will not exacerbate the parking problems on Greenfield.

Harris echo Schinner and Brown and can support the project. He was happy to hear the applicant will work with his neighbor regarding parking but does not think placing a chain across the street would work. He noted that he did not think the awning would match the bank building.

Sisich supports the applicant, stating there is ample on-site parking and supports new businesses, even though there may be some overlapping businesses.

Overberger is in favor of the staff report. Regarding multiple businesses, it is a free marking.

M/s Schinner/Brown, to approve the staff report. Motion unanimously passed 5-0). Audience advised of the ten day appeal period.

3. **V- 0907 - Edmund B MacDonald, 330 Sir Francis Drake Boulevard, APN 006-251-25** Story variance requesting 4 stories (Code: 2 stories maximum) for after the fact construction of a 7 foot 8 inch high loft within an existing 3 story building located in the C-2 Zoning District (Staff: Boyle)

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Senior Planner Boyle presented the staff report, noting that staff is unable to make the findings to support the third story.

Schinner said he would like to approve the application and asks for clarification on the conflict between the California Building Code and the Planning Code. Hurd said 10-3.603, states if there is a conflict the more restricted provisions apply, therefore, the Planning Code definition, which is less, applies.

Schinner asked about the definition of mezzanine versus story. Boyle said the building official has no problem with the area regarding the Building Code.

Brown asked if there has been historical information that this has situation has happened before. Wight said it has always been viewed as a story when it is measured at 6' from finished floor to the floor above.

Harris asked about the previous parking variance. Boyle said the parking variance was approved in 1995 when there was an addition. He noted that the 270 square foot addition would not require additional parking.

Harris asked if the historical nature of the building was taken into consideration to support the variance, because the owner is trying to maintain the character of the building and still provide useful space. Boyle said the applicant did not provide this information as part of his application.

Ned MacDonald, applicant, said he has owned the Tam Theatre since 1991. The building was not designed as an office building, but more as a dance studio and movie theatre. The top floor has a stage. This means it is difficult to design for an end user. There are six units on the top floor and this space is the largest. He first thought to divide it in half and got a bit carried away and put in the mezzanine. It allows him more space and has large windows with lots of light, with views of Mt. Tam and should be able to get a high quality tenant.

In response to Schinner, MacDonald said the height of the mezzanine is about 7.5'. He said the mezzanine will be enclosed on three sides with a pony wall and a safety rail. He has put in a lot of money with upgrades and wants the spaces to be competitive and rentable.

Sisich said he is conceptually fine with it but is unable to make the findings.

Hurd said the application before the Commission is for a variance. If there is a consensus this is a story versus a mezzanine, the Commission may deny the variance and instruct the staff to change the code interpretation.

Schinner would like to support the project but is not sure of the findings. The applicant is keeping the historical building, making efficient use of building, and putting office space upstairs and keeping retail on the bottom. He suggests denying the variance and suggests going back to the Town to change the ordinance to permit mezzanines.

Harris asked if the stories could be grandfathered. Hurd said the building is grandfathered to three, but is non-conforming. Any additions to a non-conforming building require a variance.

Brown is sympathetic because he has an attic that could be considered a story. However, there are no findings to support the variance. He is also sympathetic to the applicant's economic needs but it is a dangerous precedent.

Overberger said she hesitates changing the code for the very few projects such as this. It is very unlikely the applicant did not know the impacts of this without first discussing the project with staff (after the fact).

Harris said it is difficult to vote in favor for an after-the-fact project but at the same time he wants to see the building maximize its use and this will not have any negative impact

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on the Town. He does not want the applicant to think the 22 spaces is applicable for the building.

Schinner thought the historic feature of the building is valid for the findings.

M/ Harris, to continue the application to get further comments from staff about the viability for the historic and unique character. Died for lack of a second.

Harris said he thought special circumstances could be a link between economic viability and keeping the historical significance. He said this if a very unique property in Town.

Overberger said Harris's comments are very challenging.

Hurd asked the Commission to consider if the nature of this property prevents the owner to use this property similar to other properties in the neighborhood.

Harris said this expansion is necessary to maximize use of the building within its current structure.

Schinner said that due to the unique structure and design of the historic building, the building may be subject to constraints not applicable to other buildings (e.g. façade, colonnades, balcony, etc.).

Overberger said the building already has an extra story, which is not currently permitted.

M/s Harris/Schinner, to continue the application to get clarification.

Hurd said the problem is the matter before the Commission is for the variance, there is no question on whether or not this is a story.

Sisich said he supports the project but there are no special circumstances even though we want to support it.

Harris withdrew his motion.

M/s Sisich/Schinner, to deny the application based on the lack of findings outlined in the staff report. Motion carried (3-2 No: Harris, Brown). The audience was advised of the ten day appeal period.

DISCUSSION ITEM

Overberger said she went to the County Planning Commission meetings on the Draper project that is close to the corporation yard and suggested other to look at the story poles to view the size of the project.

ITEMS FROM PLANNING COMMISSION

Brown said there are potential conflicts with the Building Code and the Zoning Ordinance regarding stories and mezzanines and it should possibly be looked at.

ITEMS FROM STAFF

Wight said the workshop is designed to find new areas for affordable housing. Wight said last week there was a walk about town to look at the 2004 perspective sites.

Brown said the walk was very interesting, including the Sunny Hills, Red Hill School and Isabel Cook sites.

Sisich asked if there is a Housing Overlay in the General Plan to which Wight said that can be discussed at the workshop.

The meeting was adjourned at 8:30 p.m. to the next meeting on Monday, August 3, 2009.

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