

FAIRFAX PLANNING COMMISSION MEETING MINUTES
FAIRFAX WOMENS CLUB
THURSDAY, JUNE 29, 2017

Call to Order/Roll Call:

Acting Chair Newton called the meeting to order at 7:00 p.m.

Commissioners Present: Esther Gonzalez-Parber (arrived 7:10)
Philip Green
Laura Kehrlein
Mimi Newton (Acting Chair)
Cindy Swift

Commissioners Absent: Bruce Ackerman
Norma Fragoso (Chair)

Staff Present: Linda Neal, Principal Planner
Michelle Levenson, Zoning Technician

APPROVAL OF AGENDA

M/s, Green/Gonzalez-Parber, motion to approve the agenda.
AYES: Gonzalez-Parber, Green, Kehrlein, Swift, Acting Chair Newton
ABSENT: Ackerman, Gonzalez-Parber, Fragoso

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR ITEMS

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

- 1. 1569 Sir Francis Drake Boulevard: Application #17-20**
Continued consideration of a request for a modification of a Conditional Use Permit approved in 2005 and a Parking Variance to convert an existing 660-square-foot, barn structure for use as 660-square-feet of additional day-care space with 371-square-feet of second story office space; Assessor's Parcel No. 002-213-26; Highway Commercial CH Zone; Shelby Green, applicant; David and Helen Segale, owners; CEQA categorically exempt per section 15301(a)

Principal Planner Neal presented the staff report.

Commissioner Swift asked if Assessor's Parcel #005-151-01 and 02 were located in Fairfax or San Anselmo. Principal Planner Neal stated they were in San Anselmo. Commissioner Swift asked about the ADA requirements for the parking and the buildings. Principal Planner Neal stated the project would need to be reviewed by the State of California and they would probably need to make some minor modifications, including providing one accessible parking space. Commissioner Swift had questions about the fencing. Principal Planner Neal stated there would need to be some type of

separation between the subject property and the property to the west (Beauty Barn). This should be added as a condition.

Commissioner Green asked if the barn was currently being used. Principal Planner Neal stated “not really- maybe for storage”. Commissioner Green asked why this would not be considered converting an accessory building into an ancillary building. Principal Planner Neal stated the Commission could come to that conclusion but there is no definition of “ancillary” in the code.

Commissioner Gonzalez-Parber arrived at the meeting.

Commissioner Gonzalez-Parber had questions about the functions of the buildings before the day-care use. Principal Planner Neal stated she thought it was a residence. Commissioner Gonzalez-Parber asked if there was parking or open space behind the Beauty Bar. Principal Planner Neal stated it was an open, gravel lot that looks like it was used for parking. Commissioner Gonzalez-Parber asked if she was correct that the overall height of the building was not changing- they were adding a dormer. Principal Planner Neal stated “yes”.

Acting Chair Newton referred to the age of the barn (early 1900’s) and noted the staff report states there were no historical preservation conditions that would apply since it was not listed on any Historic Building Registry and has been significantly modified. This struck her as odd. Principal Planner Neal stated there have been so many changes to the building. Acting Chair Newton stated there were programs and policies in the Conservation Element of the General Plan that address the preservation of historically significant structures. Commissioner Green agreed they need to be cognizant of this.

Acting Chair Newton stated the subject property was zoned Highway Commercial and RD 5.5-7 and asked if an expansion to the commercial piece of the property would need to comply with the residential setback requirements. Principal Planner Neal stated there is no longer a property line (it has been merged) until Hill Avenue. The code reads that “if the property abuts a residential zone then a project should maintain a setback from the property line”- but there is no property line.

Acting Chair Newton opened the Public Hearing.

Ms. Shelby Green, representing The Caterpillar Academy, made the following comments:

- She has been working at this location for about 12 years.
- They are working with the landlord to move forward.
- They are flexible and want to make everybody happy.

Commissioner Green asked about the traffic during commute time (4:00 p.m. to 7:00 p.m.) and was concerned about left hand turns off of Sir Francis Drake. Ms. Green stated there was a lot of traffic at this time. There is no left-hand turn lane. Most parents opt to go around and make a simple right-hand turn. Commissioner Green asked how many parents come to pick kids up. Ms. Green stated they had about twelve parents picking up kids between the hours of 3:00 p.m. and 5:30 p.m. Commissioner Green asked if the proposal was to add 15 more students. Ms. Green stated “yes, but we will probably be adding only six to eight students”.

Commissioner Swift referred to Attachment “B”, the “Pick-up/drop off Policy”, and asked Ms. Green about the last sentence that was incomplete. Ms. Green stated they were thinking about putting in a bike rack. Commissioner Swift had a question about the attached spreadsheet, the age range of students and limitations, etc. Ms. Green stated they would like to extend the license to five year olds. The total number of children would be 18 for the house (infants and toddlers) and 15 for the barn. Commissioner Swift asked if the school operated year round. Ms. Green stated “yes”. Commissioner Swift asked how the barn was currently being used. Ms. Green stated she thought it

was being used for storage- the property owner currently uses the bar. Commissioner Swift asked if there were set times for the kids to go outdoors. Ms. Green stated "yes"- between 9:30 a.m. to noon and then again from 4:00 p.m. to pick up.

Commissioner Green asked how the barn space would be used. Ms. Green stated it would be a place for the toddlers and office space.

Mr. David Segale, property owner and contractor, made the following comments:

- This property has been in his family for a long time.
- The barn was built to house a buggy.
- He is motivated to preserve the barn and the gray house in their original state.
- They have made improvements because the barn was structurally unsound. They poured a new foundation, shored up the framing, and replaced the siding. They will not make any changes that could be seen from Sir Francis Drake.
- A portion of the gray house was at one time in San Anselmo- his family moved a portion of it.
- The fence line that borders the residence on Ramona is where the sewer line runs. They need to replace the sewer line prior to doing any landscaping.
- They were willing to do some landscaping/buffering.
- They submitted an arborist report.

Commissioner Kehrlein was concerned about the parking spaces located in the drip line of the Oak tree and asked about the parking on the east side. Principal Planner Neal stated that property was in San Anselmo and is zoned residential. The San Anselmo Planning Director could approve it being used for minimal parking and it could be used as a driveway. The arborist does not feel the tree would be negatively impacted by the parked cars.

Commissioner Kehrlein asked if a traffic engineer had reviewed the plan. Principal Planner Neal stated "no". Commissioner Kehrlein stated she was not sure the plan would work.

Acting Chair Newman asked the applicants if they would be willing to put some landscaping in to buffer the noise. Ms. Green stated "yes". Acting Chair Newman referred to the photograph depicting the neighbor's view from his kitchen window and asked if they had any solutions to those privacy concerns. Ms. Green stated they would be willing to move the sand box, the entrance point, etc. They want to foster good relations. Mr. Segale stated they might be able to move the gate that is very close to the residence on Ramona Way.

Mr. Jim Donahue, Ramona Way made the following comments:

- He works from home and feels like there is a business "on his doorstep".
- He asked for a setback or buffer zone.
- He displayed a photograph of the porch area from his kitchen.
- He expressed concern about a lack of privacy and the need for noise mitigations.

A resident made the following comments:

- Her child attends the school- traffic and parking was never an issue.
- She supports extending the age limit.

A resident made the following comments:

- His child attends the school- it is valuable to the community.
- He has never had a problem turning into the property.

A resident made the following comments:

- He is married to one of the owners.

- The school is what Fairfax needs.

Acting Chair Newton closed the Public Hearing.

Commissioner Swift provided the following comment:

- She asked if the porch in the back could be narrower and enclosed. Mr. Segale stated “yes” but the design was intended to give large setbacks. They would do this type of work in conjunction with the sewer line replacement.

Commissioner Green provided the following comment:

- Something needs to be done to ameliorate the privacy and noise issues.

Commissioner Gonzalez-Parber provided the following comment:

- Good day-care is important for a community.
- She referred to the historic significance of the building and stated the Commission was not in a position to enforce anything regarding historically significant buildings because the Town has yet to adopt a historic preservation ordinance.
- She is not opposed to the dormer- it is not facing the public right-of-way or exceeding the height limit.
- She is concerned about the privacy and noise issues. The area is “tight”.
- She would have liked to have seen a landscape and traffic plan.

Commissioner Green provided the following comments:

- The applicants could get an opinion about the historical value of the structure from ECV.
- The dormer would add light and air to the office.
- Planting bushes on the inside of the fence might help ameliorate some of the sound.
- He was leery about the parking situation.
- He supported a continuance to fine-tune the project.

Commissioner Swift provided the following comments:

- Planting trees along the fence line was important. This could be done in conjunction with the work on the sewer line.
- She would like to see a landscape plan that would address the noise and visual issues.

Commissioner Kehrlein provided the following comments:

- The size of the dormer could be reduced. It does not have to go to the ridge.
- She would like to see the structure kept as original as possible.
- She would like to see alternate sketches for the lay-out of the parking and the proposed dormer.
- She supported a continuance.

Acting Chair Newton provided the following comments:

- She agreed with the comments made by the other Commissioners.
- She wants the Commission to be specific about the things that need to be resubmitted.
- She would like to see the following: 1) A proposal to direct the flow of people going into the backyard away from the southeast corner; 2) How to address the neighbor’s privacy concerns with respect to the view out of their kitchen window; 3) How to address the neighbor’s concerns about noise during play times, etc.; 4) Alternatives to the size and positioning of the dormer and the porch.

Acting Chair Newton asked the applicants if they would agree to a 90-day extension of the Permit Streamlining Act. Mr. Segale stated “yes”

M/s, Green/Gonzalez-Parber, motion to continue application #17-20, 1569 Sir Francis Drake Boulevard.

AYES: Gonzalez-Parber, Green, Kehrlein, Swift, Acting Chair Newton

ABSENT: Ackerman, Chair Fragoso

2. 125 Live Oak Avenue; Application #17-13

Continued consideration of a request for a Hill Area Residential Development Permit, Parking Variance and Design Review Permit for a 50% remodel/expansion of an existing 1,910 sf. single-family residence into a 1,962 sf. single-family residence; Assessor's Parcel No. 001-236-03; Residential RD 5.5-7 Zone; Dan Bettencourt, applicant/owner; CEQA categorically exempt per section 15301(a).

Principal Planner Neal presented a staff report. She explained the difference between a "survey marker" and a "survey nail". The Commission agreed to the use of a "survey nail".

Acting Chair Newton opened the Public Hearing.

There were no comments.

Acting Chair Newton closed the Public Hearing.

M/s, Green/Gonzalez-Parber, motion to continue application #17-13, 125 Live Oak Avenue, pending the survey.

AYES: Gonzalez-Parber, Green, Kehrlein, Swift, Acting Chair Newton

ABSENT: Ackerman, Chair Fragoso

3. 52 Meadow Way; Application #17-25

Request for a Conditional Use Permit to convert a 119-square-foot portion of a 451-square-foot existing garage to living space (e.g., entryway with new exterior door and mudroom), remodel two bathrooms and add two new windows and doors (2 total); Assessor's Parcel No. 003-111-30; Residential RS 6 Zone; Mark and Elizabeth Knowles, owners; Gary Miller, applicant; CEQA categorically exempt per Section 15301(a).

Zoning Technician Levenson presented the staff report.

Commissioner Green asked if there was a technical rationale behind the requirements of the Slope Ordinance. Principal Planner Neal stated she would research the reasoning behind the requirements of the ordinance. She explained that for each degree increase in slope there is an exponential increase in the minimum lot size

Acting Chair Newton opened the Public Hearing.

Mr. Gary Millar made the following comments:

- The door on the side of the new entryway was in the same location. There is no change in the use of that space.
- They will preserve the parking in the garage.
- There is no plan to accentuate the entryway.

Acting Chair Newton closed the Public Hearing.

Commissioner Green provided the following comments:

- He has no issues with the project.

- He referred to the resolution and stated the reference to “Design Review Board” should be incorporated with the Planning Commission.

Commissioner Kehrlein provided the following comments:

- She referred to the resolution and noted the reference to a Variance should be deleted.

M/s, Green/Gonzalez-Parber, motion to adopt Resolution No. 17-23, 52 Meadow Way, subject to the findings and conditions in the staff report and the edits suggested by the Commission.

AYES: Gonzalez-Parber, Green, Kehrlein, Swift, Acting Chair Newton

ABSENT: Ackerman, Chair Fragoso

Acting Chair Newton stated there was a 10-day appeal period.

The Commission took a 5-minute break at 10:15 p.m.

4. 97 Meernaa Avenue; Application #17-26

Request for an Encroachment Permit to erect a 6-foot-high security/privacy fence located 8.5-feet within the Hillside Drive right-of-way at the rear of a single-family residence; Assessor’s Parcel No. 002-151-07; Residential Single-family RS-6 Zone; Helena and Laurent Martin, applicants/owners; CEQA categorically exempt per section 15303(e) and 15305(b).

Zoning Technician Levenson presented a staff report.

Commissioner Green stated the ordinance talks about allowing a temporary carport and other structures on certain portions of the street and public rights-of-way. He asked what “temporary” meant and questioned the need for a 6 foot high fence. Zoning Technician Levenson stated the term “temporary” is used because the Town could revoke the permit at any time. Commissioner Green suggested replacing the word “temporary” with “revocable” in the ordinance.

Commissioner Swift asked how much of the right-of-way was being used. Zoning Technician Levenson referred to page 2 of 4 of the attachment in the staff report and stated the right-of-way was 40 feet wide, the length of the paved roadway was 15 feet, and the posts will go in four feet from the edge of the paved roadway.

Acting Chair Newton opened the Public Hearing.

Mr. Laurent Martin, applicant, made the following comments:

- There are a number of reasons for the location of the fence.
- A dog could easily scale a 6 foot fence.
- The property is sloped and putting the fence closer to the road provides some privacy.
- There is a temporary “fence” to contain the dog during this process.
- The nine foot posts that are currently in place are “uncut”.
- Other fences along that street are located close to the road.
- They do not plan to plant any vines on the fence.

Commissioner Green asked if there was adequate space for someone to walk along the road, next to the fence, and avoid moving vehicles. Mr. Martin stated “yes, there was about four feet”.

Acting Chair Newton closed the Public Hearing.

Commissioner Swift provided the following comments:

- She was concerned about the visual effect of a “wall” of fencing right off of the road.
- The fence could be set back off of the road and still contain a dog.
- The fence would not fit in with the rest of the neighborhood.

Commissioner Green provided the following comments:

- He wanted to make sure people walking along the road were safe.
- He referred to the “License Agreement”, 5(b), and stated it should be similar to the one that is used in the resolutions.
- This is a Design Review issue.
- A “good neighbor” fence would ameliorate the view issue.

Commissioner Gonzalez-Parber provided the following comments:

- She thought there was enough room for pedestrians.
- She could approve the application.

Commissioner Kehrlein provided the following comments:

- She understood the applicant’s needs but the fence seems to be too close to the road.
- A Redwood fence can look beautiful- she did not have any problems with adding landscaping.
- It looks big and obtrusive partly due to the 9 foot posts.

M/s, Green/Gonzalez-Parber, motion to approve Application No. 17-26, 97 Meernaa Avenue.

AYES: Gonzalez-Parber, Green, Kehrlein, Acting Chair Newton

NOES: Swift

ABSENT: Ackerman, Chair Fragoso

Acting Chair Newton stated there was a 10-day appeal period.

5. 15 Acacia Road; Application #17-27

Request for a modification of a Hill Area Residential Development Permit, Side Setback Variances, Height Variance, Parking Variance, Excavation Permit, Design Review Permit, Encroachment Permit to change the floor plan and add a fourth story to a 2,204-square-foot, 2-bedroom, 2-bathroom, single-family residence; Assessor’s Parcel No. 001-112-31; Residential Single-family RS-6 Zone; Ted Pugh, applicant; Ted Pugh and Ricki Kerner, owners; CEQA categorically exempt per section 15303(a), 15305(a) and (b).

Principal Planner Neal presented a staff report. She noted the proposal did not include a fourth story. She noted there were numerous letters regarding the project.

Commissioner Green referred to the revised plan and stated there was a space that could be considered a “story” per the definition. Principal Planner Neal stated this space did not meet the ceiling height per the Building Code and would be filled with mechanical equipment. She discussed the split-level nature of the project.

Commissioner Swift asked how the new plans related to the prior plans. Principal Planner Neal stated the original plans included more excavation.

Acting Chair Newton opened the Public Hearing.

Mr. Jeff Kroot, architect, made the following comments:

- The applicant’s domestic situation has changed and the prior floor plan does not work anymore.
- They decided to go with a more typical floor plan.

- The house is essentially the same as previously approved- there is a slight decrease in windows on all three sides.
- The area where the mechanical equipment would be located is very narrow and could not be considered living space. They would be willing to raise the floor level.
- This is an extremely difficult site- it is quite steep and needs retaining walls. They would like to get started soon.

Mr. Ted Pugh, property owner, made the following comments:

- The neighbors were concerned there would be a fourth level. He assured them there is no plan for a fourth level.
- Nothing material has changed from the approved application.
- He hoped this plan was workable.
- The definition of a “fourth level” needs to be clarified.
- They want to preserve the windows that provide light.

Commissioner Green asked if the roof could come down a bit and still accommodate the mechanical equipment. Mr. Kroot stated the drawing was a bit misleading- the roof is sloping back and the upper part will not be seen from the street. The house is modestly above grade and the lower two floors are “under the ground”. It will look like a three story house from the street.

Mr. Jeff Bickner, Acacia Road, made the following comments:

- He would like to see the property developed.
- He shares the concerns expressed by Commissioner Green.
- This will be a wonderful addition to the neighborhood.
- He is opposed to a fourth story.

Mr. Tom Dearing, Acacia Road, made the following comments:

- He lives next door.
- He had no complaints about the previous drawings.
- He is not sure he would have any complaints now.

Acting Chair Newton closed the Public Hearing.

Commissioner Green provided the following comments:

- He was concerned about setting a precedent with respect to a “fourth floor”.
- The project would look massive compared to the adjacent properties.
- If they plan to move the floor up then he would like them to move the roof down.
- The testimony of the neighbors was very helpful
- He could approve the project but he would like to see the roof height lowered.

Commissioner Kehrlein provided the following comments:

- The changes were significant enough to open up a future discussion about how “height” is measured- finished grade vs. natural grade. Principal Planner Neal stated the code stated height should be measured from natural grade.
- They meet the height limit because of natural grade.
- There is an opportunity cut the height- the attic is taller than it needs to be, the continuous shed roof could be pitched back (more into a gable), and they could lower the plate height in the middle section of the east elevation. Mr. Kroot stated they could raise the floor in the mechanical room two to three feet instead of lowering the roof.
- The floor plan changes make sense.

Commissioner Swift provided the following comments:

- The roofline was raised up to add more windows in the back and if it peaked down it would reduce the amount of light.
- She would like to see them go back to the original roofline.
- She is fine with everything else.

Commissioner Gonzalez-Parber provided the following comments:

- She agreed with Commissioner Kehrlein's concern about the height.
- She asked if there was a two foot difference (in the back) from the previous submittal. Principal Planner Neal stated it was more like five ½ feet.
- She was thinking about the whole concept of the Floor Area Ratio (FAR) even though they are under the FAR.
- She is bothered by the section depicting bedroom two and stated it should be lower.
- She is bothered by the volume of the project.
- She asked about the excavation schedule. Principal Planner Neal stated excavation could not occur between October 1st and April 1st.
- She could support the previously approved roofline.
- Everything else is fine- she would like to see them break ground this year.

Commissioner Kehrlein provided the following comments:

- She referred to the south elevation and noted the grade was higher in the back than on the opposite side (the west).
- She could support this original roofline and suggested installing a skylight instead of the clerestory windows. Mr. Kroot stated the eave could go straight across and they could install a skylight.

Acting Chair Newton provided the following comments:

- She has mixed feelings about taking the roofline back to what was in the previous drawings- the revised drawing with the different levels of the roof is more interesting visually. She could go either way.

M/s, Kehrlein/Swift, motion to approve application No.17-27, 15 Acacia Road, with the following condition: 1) The roofline shall be as shown in the previously approved application from last year.

AYES: Gonzalez-Parber, Green, Kehrlein, Swift, Acting Chair Newton

ABSENT: Ackerman, Chair Fragoso

Acting Chair Newton stated there was a 10-day appeal period.

MINUTES

6. Minutes from the April 26, 2017 and May 18, 2017 meeting

M/s, Green/Swift, motion to approve the April 26, 2017 and May 18, 2017 minutes as corrected.

AYES: Gonzalez-Parber, Green, Swift, Acting Chair Newton

ABSENT: Ackerman, Chair Fragoso

ABSTAIN: Kehrlein

COMMISSIONER COMMENTS AND REQUESTS

Commissioner Green wished everyone a Happy 4th of July!

Mr. Tom Dearing, Acacia Avenue, stated he was concerned about the process of getting a permit for his retaining wall.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 11:05 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary