

FAIRFAX PLANNING COMMISSION MEETING MINUTES
FAIRFAX WOMENS CLUB
THURSDAY, JULY 19, 2018

Call to Order/Roll Call:

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

Commissioners Present: Norma Fragoso
Philip Green
Laura Kehrlein
Mimi Newton (Chair)
Michele Rodriguez
Cindy Swift

Commissioners Absent: Esther Gonzalez-Parber

Staff Present: Ben Berto, Planning Director
Linda Neal, Principal Planner
Michelle Levenson, Assistant Planner

APPROVAL OF AGENDA

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

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

- 1. 103 Woodland Road; Application #18-11**
Request for a Hillside Area Residential Development (HRD) Permit (fifty-percent remodel), design review permit, encroachment permit and variances for the expansion and remodeling of a 2,216 square-foot, three-story, single family residence into a 3,540-square foot, three-story family residence, with second- and third-story decks, a carport and on-site parking for three (3) vehicles. Assessor's Parcel No. 003-081-08; Residential Single-family RS-6 Zone District; Stacey Lovelace, applicant/owner; CEQA categorically exempt per Section 15301(e).

Assistant Planner Levenson presented a staff report. Staff made the following addition to Resolution 2018-10: on page 6, Condition of Approval #13 shall include the standard language regarding obtaining a Tree Removal Permit.

Commissioner Rodriguez asked if the garage had been gone so long that it could not be considered a non-conforming use and would require a variance. Assistant Planner Levenson stated “yes”.

Commissioner Green noted the carport was part of what was causing the encroachment and he asked if the carport was optional or required by ordinance. Assistant Planner Levenson stated it was required because it was a 50% remodel and they are adding a bathroom.

Chair Newton asked if the Tree Committee would need to approve the removal of the tree even if approved by the Planning Commission. Assistant Planner Levenson stated “yes”.

Chair Newton asked what the allowable size of an accessory dwelling unit would be according to the new State law. Assistant Planner Levenson stated it could be 50% of the area of the residence or 1,200 square feet, whichever is smaller.

Commissioner Fragoso asked about the large rooftop terrace and if staff was recommending a limit to 15 feet in width. Assistant Planner Levenson stated “yes”- the third deck off the bedroom is new and would exceed 900 square feet. Staff is of the opinion that this is a very large deck. Commissioner Fragoso wondered if this area would be suitable for solar.

Commissioner Green had questions about the current state of the house

Commissioner Fragoso referred to the upper deck and asked if the overhang was solid or open to the floor below. The architect stated it was a solid overhang. Commissioner Fragoso asked if the second story deck was existing. The architect stated “yes”.

Chair Newton opened the Public Hearing.

Ms. Stacy Lovelace, applicant, made the following comments:

- Additions were made to the house over the years that do not make a lot of sense.
- She is bringing it up to code.

The architect made the following comments:

- They could install solar but they want a view of the trees.
- The story poles were not correct especially near the carport area.
- They are reconfiguring the building- the square footage on the second and third floor is not that different.
- The majority of the added square footage is in the unfinished area under the house. This does not add to the bulk of the house.
- She does not think the third floor terrace was too large- the proposal is a better solution in terms of aesthetics. It works with the building envelope.
- The 3 ½ foot guard rails would feel very high looking out from the bedroom. Pushing it back to the edge of the building gives it a nicer feel.
- They are 68’ away from the neighbor. There is also a substantial canopy of Oaks.
- They are open to providing a vegetative screen.
- They would rather not build a carport. She asked the Commission to grant an exception to the requirement for a carport.
- The tree they would like to remove is right next to the building- it is not in a good spot.
- They are planning to use Redwood lap siding with a stain.
- The decks provide an outdoor living space. There is a level patio behind the house.
- They would prefer to keep the proposed size of the upper deck.

Ms. Stacy Lovelace, applicant, made the following comments:

- She moved to Fairfax for the peace and quiet. There will be one person living in the house.
- The size of the house is dictated by what is already there-she is just finishing it out.
- She would prefer the proposed size of the deck- but would not walk away if it were not allowed.

Mr. Russell Hill, Oak Road, made the following comments:

- He has seen the evolution of this house for over 50 years.
- The tree canopy would screen his view of the project.
- He supports the applicant's plans. It is appropriate for the neighborhood.

Ms. Mallory Geidheim, Willow Avenue, made the following comment:

- Many houses in Fairfax can not do solar.

Ms. Lori Rose, Woodland Avenue, made the following comments:

- She lives next door to the applicant.
- The house has been in disrepair for several years.
- The plans look great. The project will be a nice improvement.
- The deck would not be an issue.

Chair Newton closed the Public Hearing.

Commissioner Kehrlein provided the following comments:

- She referred to the materials board and stated the color might be too light.
- She applauded the architect and applicant- they have done a great job dealing with this house.
- She likes the design and the deck as proposed.
- Bringing the deck railing in could cause problems (leaking, etc.).

Commissioner Rodriguez provided the following comments:

- This is a substandard lot.
- The project is too large.
- Variances are intended to address properties that are not like others in that district- this is not the case. They are cumulatively affecting.
- The overall building size is larger than the others in the area.
- They are being asked to approve the expansion of an illegally built structure on a substandard lot.
- She would recommend denial of the project as it does not meet the legally required findings for approval.

Commissioner Green provided the following comments:

- The project would be an improvement to the neighborhood.
- It looks beautiful.
- He has a problem with the number of Variances being requested and did not want to set a precedence for future projects.
- He would rather waive the requirement for the carport instead of considering the setback variances.
- One of the problems with the upper deck is the fencing that is proposed- a lighter railing would give it a less massive look

Commissioner Swift provided the following comments:

- She is concerned about the mass of the second floor deck (it is pushed out too far).
- She is not concerned about the size of the project.

- She would prefer to see the carport.

Commissioner Fragoso provided the following comments:

- She liked how they have flattened out the roof line. It is a cleaner look and reduces the overall mass of the building.
- She loves the design.
- The footprint is already there- it is being tweaked to make it more livable.
- She has no problem with a railing that extends to that lower floor- it makes sense structurally.
- It would not be fair to require a new owner to take the structure back to its previous condition.
- She likes the look and feel of the project in that site. It does not look out of character.
- Parking in that area is tough. She can see the logic in not building a garage.
- She would be willing to waive the covered parking requirement because construction in the right-of-way would be detrimental to the look and feel on the environment.
- She would be willing to compromise and approve the more extended deck.

Chair Newton provided the following comments:

- She is torn- she agreed with Commissioner Rodriguez about the size.
- She is concerned about after-the-fact approvals of illegal construction.
- She is concerned about the number of different aspects of the project approval.
- Limiting the rooftop terrace will not resolve anything.
- She acknowledged that the existing house dictated the design.
- It does not make sense to require a carport. She would like to see the same footprint for parking.
- She referred to page 2, Encroachment Permit, and recommended the following modification: “The area.....therefore, *under the circumstances of this property*, approval of a *revocable* encroachment permit...”.

Commissioner Swift had questions about the surfaces (brick, dirt, etc.) for the parking areas and if they would be level. The architect stated the surface would be concrete.

Commissioner Fragoso asked if the stucco wall on the left front of the property would remain as is. The architect stated “yes- but they would cut a bit off”. Commissioner Fragoso asked if they would consider making the parking area permeable if the Commission recommended no carport. The architect stated that would be a reasonable trade-off.

Principal Planner Neal stated the plans reviewed by the public included a covered carport and if the Commission would like to grant a Variance to covered parking then the application should be continued.

M/s, Green/Kehrlein, motion to approve Resolution No. 2018-10 with the modifications proposed by Chair Newton and staff.

AYES: Fragoso, Green, Kehrlein, Swift, Chair Newton

NOES: Rodriguez

ABSENT: Gonzalez-Parber

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

The Commission took a 10-minute break at 8:45 p.m.

2. Maximum Residence Size (Maximum Floor Area)

Continued consideration of Commission recommendations about potential reductions in the maximum permitted residence size (maximum floor area) of single family residences

and duplexes from the current 5,000 square feet maximum. Also potential applicability of garage and accessory structure floor area, as well as amendments to the non-conforming chapter (17.16) of the Zoning Ordinance will be considered. If approved at a later date, the changes to the Town Code would affect all single-family and duplex residential properties within the Town limits; CEQA categorically exempt 14 C.C.R. Section 15301, 15303, and 15332

Planning Director Berto presented the staff report.

Commissioner Swift had some questions about the staff report and stated there was not a consensus on the issues of accessory buildings and green building technology.

Commissioner Rodriguez asked for clarification on Option #4.

Commissioner Green had a question about the procedure and if they were only looking at the issue pertaining to maximum floor area (not floor area ratio, lot coverage, etc.). Planning Director Berto stated "yes".

Commissioner Fragoso had questions about the concerns expressed by the Council.

Chair Newton referred to Option #5 and asked if staff has an estimate of the cost for professional assistance. Planning Director Berto stated professional planning consultants typically charge \$150 per hour. The Council would come up with a budget.

Chair Newton asked staff if they had a chance to look at the City of Novato's program. Planning Director Berto stated "no" but it would probably be similar to Option #2.

Chair Newton asked staff if they spoke to the Town Attorney about the issue of determination of a "taking". Planning Director Berto stated "not yet" but decisions must be equitable and not arbitrary and capricious- they need to be based on findings.

Chair Newton opened the Public Hearing.

Ms. Weinstein, Oak Tree Lane, made the following comments:

- People do not want big houses.
- The 24 houses over 3,500 square feet constitute less than 1% of the housing units in Fairfax.
- The Commission needs to be more concerned with the other 99% who want to maintain the character of the Town.
- Most of the houses over 3,000 square feet are in two, small gated communities.
- There are not a lot of big, old, funky houses in Town.

Mr. Larry Bragman made the following comments:

- He supports the concept of reducing the mass and size of houses in Fairfax.
- Things have changed since 2003 including global warming and social aspects.
- When looking at house size you are looking at the natural environment and the built environment.
- Protecting the built environment does affect the character of a Town.
- Smaller house sizes have greater environmental and ecological advantages.

Mr. Frank Egger, Meadow Way, made the following comments:

- He questioned the number of homes that would be affected by a reduction in the maximum house size.

- They need to understand the impact that changing the cap would have on the community.
- The cap should include garages and accessory units.
- The 24 homes that would be affected should be issued a Variance of Use Permit to legalize them.

Ms. Joan Carson, Scenic Road, made the following comments:

- She is in favor of lowering the maximum square footage of a primary residence to 3,500 square feet for new projects.
- She is not sure why existing structures should become legal non-conforming.
- Lessening the financial incentive for developers would be good for the community.

Mr. James Bradley, Spruce Road, made the following comments:

- He opposed any change to the maximum size limit.
- There are existing regulations and processes that restrict house size.
- Fairfax does not have a “monster house” problem.
- There could be unintended consequences.
- This would be an intrusive regulation that would limit private property rights.

Ms. Deborah Benson, Cascade Drive, made the following comments:

- This issue has been discussed since 2002.
- The character of Town is being threatened by potential “monster homes”.
- She would like to see the maximum square footage on the lower end- 2,000 to 2,500 square feet.

Mr. Mark Bell, Dominga Avenue, made the following comments:

- There is no need for a 4,500 or 5,000 square foot house.
- Ridgelines need to be preserved.

Ms. Mallory Geidheim made the following comments:

- She read an email from a friend who is opposed to 5,000 square foot homes due to the destruction of natural resources.
- She does not want to see anything over 3,000 square feet.

Ms. Lynchen Bell, Dominga Avenue, made the following comments:

- She agreed with the comments already made.
- Bigger houses should be “grandfathered” in.

Chair Newton closed the Public Hearing.

Chair Newton asked for comments on green building technology and bonuses.

Commissioner Green provided the following comments:

- It might not be necessary to have these provisions on the Zoning Ordinances because of State law.
- However, developers should be put on notice about these provisions.

Chair Newton provided the following comments:

- There are some things that the State of California does not require and it might be beneficial to consider bonuses for these types of technologies.
- They should not give bonuses for things that are required by State law.

Commissioner Fragoso provided the following comments:

- She agreed with the comments made by Chair Newton.
- There could be new green features that they might want to require but would not be subject to a bonus.

Chair Newton asked for comments on the provision that an accessory unit under 120 square feet and not served by utilities would not be counted against the maximum floor area size limit.

Commissioner Swift provided the following comments:

- They have not talked about the unintended consequences including multiple structures of that size.
- She asked Planning Director Berto to address the impacts to the Wall property. Planning Director Berto stated this application is already in process. There are serious legal questions about targeting a particular piece of property.

Chair Newton asked for comments about the Options list in the staff report.

Commissioner Fragoso provided the following comments:

- She is leaning towards Option #4 if they decided on a size limit.
- The size of a parcel limits the size of a residence that can be built.
- Someone would need a 12,500 square foot property to build a 5,000 square foot home.

Commissioners Green and Kehrlein provided the following comments:

- They preferred Option #2.

Commissioner Swift provided the following comments:

- She is in favor of leaving the Ordinance as is.
- Section 17.016.070 should be clarified- it does not make sense.
- Option #2 was vague and would create an added burden to the homeowner; Option #3 was vague; Option #4 would have unintended consequences; Option #5 was not necessary.

Commissioner Rodriguez provided the following comments:

- Larger homes do yield higher energy, more cars, and an increase in greenhouse gases.
- She looked at it as a combination of the options.
- There should be a reduction in the maximum building size for new construction/projects- she was thinking 3,000 square feet. This would require code changes to reduce the floor area ratio (FAR) and lot coverage.
- Any project proposed above a 3,000 square-foot maximum allowed house size would have to demonstrate that energy innovations have been incorporated into the design that would result in the larger house having the energy efficiency of a 3,000 square-foot house. The maximum house size allowed using the energy efficiently exception would be capped at 4,000 square-feet.
- Existing buildings would be determined to be legal. These homeowners should be encouraged to maintain and improve these properties.
- Section 17.016.040 (B)(1) should be changed from 50% to 75%- this would encourage improvements.
- She would like to see other code changes to make Variances more stringent.

Chair Newton provided the following comments:

- She originally preferred Option #2 and then #1 but she now prefers a combination approach as suggested by Commissioner Rodriguez.
- She supports Option #5.

Commissioner Kehrlein provided the following comments:

- People are concerned about the character of the Town changing. She is not convinced that house sizes are responsible for this- it is property values.
- She is concerned about infringing on property rights.
- She preferred Option #1- no change.
- There are not a lot of big houses in Fairfax.

Commissioner Fragoso provided the following comments:

- She agreed with the comments made by Commissioner Kehrlein. They are in keeping with some of her concerns.
- She also agreed with the comments made by Commissioner Rodriguez- it provides flexibility if high level green features are brought in.
- Homeowners with existing large homes should be allowed to make improvements.

Commissioner Green provided the following comments:

- He agreed with the comments made by Commissioner Rodriguez- if home size is limited and someone wants to build something larger then they should be required to make the house “greener”.
- He brought up the issue of a “taking” and noted he was of the opinion that the “test” would not be met. The property owner would still be able to use the property.

Commissioner Swift provided the following comments:

- House size does not determine the number of vehicle trips.
- They already have the tools they need- FAR, lot coverage, etc.
- They should spend time working on objective standards.

Chair Newton asked staff to convey to the Council that there is a variety of opinions from “do nothing” to “make significant changes to the ordinance”.

Planning Director’s Report

3. Report from Ben Berto, Director of Planning and Building Services

Planning Director Berto reported the Town Council met last night and made very good progress on the issues related to cannabis regulations. He is not sure when the issue will come before the Commission. The Marinda Heights (Wall property) submittal came in this week. He will post information on the Town Website. There is a new intern in the Planning Department and he is helping with the development of objective standards. The Town Council continued its discussion on the Commissions Work Program to the August meeting. Staff will begin discussions with the Town Attorney’s office about recent housing legislation. The next Planning Commissioners Academy will be held in Long Beach in March, 2019.

Chair Newton asked for an update on the Victory Village Project and the Caterpillar Academy. Planning Director Berto stated plans were submitted for the Victory Village Project and they are in the building permit review process. Commissioner Swift had questions about the parkland dedication with respect to the project.

Chair Newton asked staff to report back on the Victory Village dedication issue and the Caterpillar Academy next month.

4. Minutes from the June 21, 2018 Planning Commission meeting.

M/s, Green/Fragoso, motion to approve the June 21, 2018 Planning Commission minutes as corrected.

AYES: Fragoso, Green, Rodriguez, Swift, Chair Newton

ABSENT: Gonzalez-Parber

ABSTAIN: Kehrlein

5. Commissioners Comments and Requests

Commissioner Swift had questions about the Town's vs. the State's definition of "floor space" with respect to accessory dwelling units (ADU's).

Commissioner Swift stated as part of the Work Plan they should start the survey/inventory of historic buildings. She would like to get that project going.

Commissioner Green asked about the status of the Parkade Rehabilitation project. Planning Director Berto stated he would report back next month.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:40 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary