

DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES
FAIRFAX WOMENS CLUB
THURSDAY, JULY 20, 2017

Call to Order/Roll Call:

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

Commissioners Present: Bruce Ackerman
Norma Fragoso (Chair)
Esther Gonzalez-Parber
Philip Green
Laura Kehrlein
Mimi Newton
Cindy Swift

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

APPROVAL OF AGENDA

Commissioner Swift stated she would like to add some discussion items to the agenda.

M/s, Swift/Newton, motion to approve the agenda with the addition of Discussion Items.
AYES: Ackerman, Gonzalez-Parber, Green, Kehrlein, Newton, Swift, Chair Fragoso

DIRECTOR OF PLANNING AND BUILDING SERVICES

Principal Planner Neal introduced newly hired Director of Planning and Building Services Ben Berto.

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

PUBLIC HEARING ITEM

- 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 a staff report. She discussed the modifications.

Commissioner Swift, Green, and Chair Fragoso had clarifying questions about the staff report.

Chair Fragoso opened the Public Hearing.

16. Ordinances that cause a lot of hearings on a common topic

- a. Whether those should be amended,
- b. Whether there can be over the counter (OTC) permits for some of this?
 - i. Cuts cost of common issues.

Staff's List

Consider including a section that retires incomplete applications within a set time limit so that the file/plans can be recycled.

Relocate the 50% remodel definition to the property alphabetical order in the Definitions section of the code.

Consider amending the tree ordinance so the Commission has the authority to approve tree removal permits for projects that obtain discretionary permits from the Planning Commission.

Consider decreasing the accessory structure height limit to below the 15 feet allowed now.

Include an expiration time period for Use Permits that are not activated.

Include an expiration time period for Design Review permits.

Have Town Council consider banning the installation of new outdoor wood burning fire places.

Consider removing the requirement for a Use Permit for any modification of properties failing to meet the minimum size and width requirements (must include a fiscal impact analysis).

Add Shadow Creek properties to the list of PDD Zoned sites in the tables if the tables end up not being eliminated.

Add to the Building Section of the Town Code the requirement that a Certified Access Specialist Report (CASP) for Commercial properties should be required prior to issuance of building permits for significant remodels.

Amend Town Code § 17.040.010, Lot Coverage, to include language regarding impervious surfaces to match the lot coverage definition in the Code.

Consider eliminating the SF RMP Zone Chapter.

17.048.020 include Upland Residential Zones as residential areas where second units are permitted.

Amend noise table in Town Code § 8.20.050(B)(1) to have the same times listed as Town Code § 8.20.060(C).

Mr. Dave Segale, property owner, made the following comment:

- They are hoping that the modifications and improvements that have been made will meet the standards of the Commission.

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

- She thanked the Commission for their suggested modifications.
- They want to provide excellent child care for the residents in the area.
- She sent a letter to the adjacent neighbors asking them to contact her with any complaints.

Commissioner Green asked what improvements would be made that would help direct children and parents away from the eastern portion of the rear yard. Mr. Segale stated the current access to the backyard is on the east side of the barn. They plan to move the primary entrance to the west side and raise the fence to six feet to create more of a barrier. Chair Fragoso asked if the new entrance would be further over towards the Beauty Bar. Mr. Segale stated it would start at the far southwest corner of the existing gray house. The fence would run the property line between the Beauty Bar and the barn until it intersected the existing fence.

Chair Fragoso asked about the time schedule for the proposed renovations. Mr. Segale stated they would like to start construction as soon as possible. Chair Fragoso asked if the suggested idea for the fence and trees on the east property line would take care of the neighbor's privacy needs. Mr. Segale stated he has not had a lengthy discussion with the neighbors.

Commissioner Gonzalez-Parber asked if the egress to the backyard playground area included one or two sets of stairs. Mr. Segale stated there would be one set of stairs. Commissioner Gonzalez-Parber asked if the stairs descend to the east. Mr. Segale stated "yes" - there is also a set of existing stairs that go out to the side of the building and a set of steps that go into the basement area. Commissioner Gonzalez-Parber asked about the distance between the parking stall and the future fence. Mr. Segale stated it was about 3 ½ to four feet.

Chair Fragoso asked about the number of staff. Ms. Green stated there were currently a total of eight- four full-time and four part-time. Chair Fragoso asked where they park. Ms. Green stated they park between the barn and the house, in front of the house, and in the side parking lot under the Oak tree. There are typically three staff cars at any given time.

Mr. Jim Donahue, 16 Ramona Way, made the following comments:

- He submitted a two page document to staff this afternoon. He submitted the document to the Commission.
- He thanked the applicant for the modifications. He is happy that the deck was removed.
- He thought the owners would reach out to him and other neighbors about the details of the modifications- they did not.
- The landscaping will benefit his property a lot but he wondered what would be done in the interim while the plants are growing. He asked if the fence could be modified.
- There is no landscaping proposed that would cut down on the noise impacts to the overall community from the southern end of the subject property.
- He still has major concerns. He asked if the steps could be angled away from his property or some screening installed.
- He asked why the garden bed was potted and not in the ground. Principal Planner Neal clarified the plants would be planted in the ground.

Commissioner Newton asked if the document he just submitted was given to Mr. Segale. Mr. Donahue stated "no".

Ms. Alish Donahue, Ramona Way, made the following comments:

- There is a lack of communication.
- The noise from the subject property is very loud.
- There is a continual lack of privacy.

Ms. Maryann Rollins, co-owner of the school, made the following comments:

- She has worked at the school for seven years.
- The students are outside no earlier than 10:00 a.m. and stay outside until 11:30 a.m. Sometimes they have lunch outside at 12:30 p.m.
- The school is open Monday through Friday- not on the weekends.
- They do not congregate with the families outside.
- They have pushed everything in the yard away from the neighbor's house.

Commissioner Swift asked if there was any outdoor play in the afternoon. Ms. Rollins stated they have been outside after lunch only about twice this year. When the kids wake up from a nap they go out to the front porch. It is very difficult to play outside in the afternoon due to the heat.

Commissioner Gonzales-Parber asked about the future schedule for the bigger kids. Mr. Green stated the children will need to split the yard time- the older kids will not be in the yard at the same time as the younger ones.

Chair Fragoso asked how many kids were currently in the program. Ms. Green stated there were 20 families, with a cap of 18 families in the gray building. Chair Fragoso asked about increasing the program capabilities and if they would be using the barn more for the older kids. Ms. Green stated they would have to wait for the license to see how many they could have- they hope to get licensed for 12-15. They would then take some children out of the main house and put them into the barn building (probably about six). Twelve is the maximum recommended group size.

Mr. Donahue made the following comments:

- Historically, the children have been outside most of the day.
- He reiterated that parents and teachers meet under his window to conduct business.

Commissioner Newton asked the applicants if they had any thoughts about Mr. Donahue's late mail. Mr. Segale clarified the following: 1) The size of the pots indicate the size of the plants when planted; 2) They created a berm to create a barrier that is higher than six feet for more privacy and a better sound block; 3) The need to have an access point on that side to facilitate the backyard- it would be a secondary use for wheelbarrows, etc.; 4) The porch is a minimum sized stoop and will not facilitate meetings- it will provide a way to exit and enter the building; 5) He is not sure they would be able to raise the fence per the Town code; 6) They have tried to communicate with the neighbors.

Chair Fragoso closed the Public Hearing.

Commissioner Green provided the following comments:

- He could approve the Conditional Use Permit.
- He respects the neighbor's privacy.
- The barn will eliminate a lot of the noise by allowing kids to play indoors.
- Some of the concerns could be addressed by signage that directs people away from the neighbor's house.
- They applicants have done what they could do.

Commissioner Gonzalez-Parber provided the following comments:

- She is pleased with the revisions.
- She was glad to hear that the applicants sent a letter to the neighborhood.
- Both parties have a responsibility to communicate.
- She is glad that the dormer and deck (now a stoop) are gone.
- Traffic has been rerouted away from the gate.
- It will take time for the mound to develop.
- She wondered if they could add 2 feet of lattice above the 6 foot fence.
- The applicants have a right to operate and the neighbors have a right to privacy
- They need to work together to work out these details- this will take time.
- She supports the project as is.

Commissioner Ackerman provided the following comments:

- He agreed with the comments made by Commissioner Gonzalez-Parber.
- There is a good opportunity for the applicant and neighbors to talk and work things through.
- He asked if installing lattice on top of the fence would require a Fence Height Variance. Principal Planner Neal stated "yes".
- There is a need for child-care in the community and having it in a neighborhood was an appropriate location.

Commissioner Newton provided the following comments:

- There were two different standards for decibel levels and she asked if the commercial standard would apply. Principal Planner Neal stated they would use the residential standard if the playground was in the residential zone. The measurement is taken from the property line of the person making the complaint. This issue is problematic in terms of enforcement – traffic noise levels are high.
- She referred to the Resolution, page 2, and noted in #7 the Town Code reference should be 17.096.120(2); on page 4, #10 the reference should be the Planning Commission and not Design Review Board, in #11 it should read "A separation fence shall be erected between 1569 and 1573 Sir Francis Drake....".
- She hoped the parties involved continued to work together.
- They should move forward to approve the revised plans that have been presented.

Commissioner Swift provided the following comments:

- She agreed with the comments made by the other Commissioners.
- She referred to the Resolution and stated: 1) Reference to a Height Variance should be deleted from the title; 2) Condition #3 shall read "The applicant shall reapply for *and receive the necessary approvals from San Anselmo...*; 3) Condition #4 shall read "Any modifications of these conditions.....*prior to implementation*".

Commissioner Kehrlein provided the following comments:

- She thanked the applicant for responding to the issues raised at the previous meeting.
- The proposed landscaping is more than generous.
- She could approve the project.

Chair Fragoso provided the following comments:

- She encouraged the owners and neighbors to meet to try to resolve their differences.
- The owners have been very forthcoming in making all the recommended changes.
- She would consider a Fence Height Variance if the problems continue.

M/s, Green/Gonzalez-Parber, motion to approve Resolution No. 17-20, 1569 Sir Francis Drake Boulevard, with the elimination of the Height Variance and the changes to the resolution recommended by Commissioner Newton and Swift.

AYES: Ackerman, Gonzalez-Parber, Green, Kehrlein, Newton, Swift, Chair Fragoso

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

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

2. 125 Live Oak Avenue.; Applicant #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 the staff report.

Commissioner Green asked if the plat map had been recorded. Principal Planner Neal stated the corners of the property were not set- they set the edge of the public right-of-way, which was acceptable to the Town Engineer. This does not have to be recorded.

Commissioner Ackerman asked if the striped area was a turn-around or a fire staging area. Principal Planner Neal stated it is a fire truck apparatus staging area.

Commissioner Swift asked if the white paint was permanent. Principal Planner Neal stated "no"- the Fire Department has official markings and will paint it appropriately and add some signage.

Chair Fragoso asked if the supporting framing on the existing deck would be replaced. Principal Planner Neal stated it would probably be replaced- the Town Engineer would review the project plans and not allow it to remain if it is unsafe.

Chair Fragoso opened the Public Hearing.

Mr. Peter Lacques, Live Oak Avenue, made the following comments:

- He was originally concerned that the plans would shift the fire truck staging area right next to his property.
- Although not the ideal solution, moving it towards the other side of the street preserves one parking space.
- This is an improvement.

Chair Fragoso closed the Public Hearing.

Commissioner Swift provided the following comments:

- She noted an error in the staff report.

Commissioner Green provided the following comment:

- He referred to page 3 of the resolution, #7, and noted the second sentence should read: "Therefore, the time....will take place *shall be* such that work...".

Commissioner Newton provided the following comments:

- She referred to page 6 of the resolution, paragraph #9, and asked for the deletion of the reference to the Design Review Board.

Chair Fragoso provided the following comment:

- She referred to page 6 of the resolution, "Town Engineer" #2, and asked that the following be added to the sentence: "... An excavation and fill permit *is required* from the Building Department...".

M/s, Ackerman/Gonzalez-Parber, motion to approve Resolution No. 17-15, 125 Live Oak Avenue, with the modifications made by Commissioners Green, Newton, and Chair Fragoso.

AYES: Ackerman, Gonzalez-Parber, Green, Kehrlein, Newton, Swift, Chair Fragoso

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

3. 63 Hickory Road; Application #17-28

Request for a Conditional Use Permit, Excavation Permit and Combined Side Setback Variance to reconfigure and legalize the lower-level living space, remodel the second-level living space, change the existing roof line and install a retaining wall adjacent to a parking area all associated with a 1,550 square-foot, single-family residence; Residential RS 6 Zone; Greg Shaw, applicant; Cliff and Patty Koch, owners; CEQA categorically exempt per Section 15301(a)

Commissioner Ackerman stated he would need to recuse himself from this item since he lives within 500 feet of the subject property. He left the dais.

Assistant Planner Levenson presented the staff report.

Commissioner Swift had a question about the need for the Excavation Permit and a citation on the plans about compliance with the "2013 California Building Code". Assistant Planner Levenson stated the Building Permit would require the applicant to comply with current codes. Commissioner Swift noted that the address on the bottom paragraph on p. 4 should be changed to "63", and asked for more information about the type of easement on the left of the house. She asked if the Town has maps of the fire lanes. Principal Planner Neal stated there is no official map adopted by the Town. The Fire Department reviews for these easements when 50% remodel applications are submitted and requires them if necessary.

Commissioner Kehrlein asked about the size and slope of the lot. Assistant Planner Levenson stated that staff uses the MarinMaps tool to determine the slope at 14.16%.

Commissioner Green stated he was concerned about the combined sideyard setback issue- the required permitted is 20 feet but they are asking for 12 feet. He asked if there were other properties in the neighborhood with similar setbacks. Principal Planner Neal stated "yes".

Commissioner Gonzalez-Parber asked if the encroachment was on the east side of the house next to the easement. Assistant Planner Levenson referred to Sheet A4, and stated it was a portion of the new retaining wall that further diminishes the combined side-yard setback. Principal Planner Neal stated the retaining wall was considered a structure and they are not normally supposed to be built in the combined side-yard setback. Commissioner Gonzales-Parber asked how far out they could build to maintain the existing setback. Assistant Planner Levenson stated "about five feet".

Chair Fragoso opened the Public Hearing.

Mr. Eric Woodhouse, representing the applicant, made the following comments:

- Everything was covered in the staff report- he was impressed with the detail.
- The plans were originally drawn in November and December of last year and submitted in January. The dates on the plans will be updated during the Building Permit phase.
- He referred to the excavation and stated the house was originally built as it is- there were never any modifications made. The tax records show "finished basement" and "unfinished basement"- but it is all basement.

Commissioner Kehrlein asked for an explanation regarding the area of the new patio and asked if there was a small window in that room. She asked if this could be done in a different way and if the retaining wall was needed for the new parking. Mr. Woodhouse stated they want to replace the small window with a sliding door and allow egress and light from the patio beyond. The retaining wall is intended to support the hill. Commissioner Kehrlein asked if they would need a retaining wall if there was a window and not a sliding door. Mr. Woodhouse stated if they are not permitted to put in a door and had a window that was higher up then the grade could then be higher thus removing the need for a retaining wall. This would significantly diminish the value of what they are trying to do. Commissioner Gonzalez-Parber asked if there were other criteria that is pushing the depth of the patio. Mr. Woodhouse stated "no". Principal Planner Neal stated this area below grade provides a bit of outdoor private space that they would otherwise not have.

Chair Fragoso closed the Public Hearing.

Commissioner Gonzalez-Parber provided the following comments:

- She liked the interior improvements and the idea behind the design.
- The proposal is a big improvement over what is there now.

Commissioner Green provided the following comments:

- He referred to the resolution, page 1, the 4th "Whereas" (1) and stated it should read: "The proposed residence.....and findings can be made for *the variance of non-conforming aspects by the requested....*".
- He is happy to see when properties are improved in Fairfax both structurally and from a safety standpoint.

Chair Fragoso provided the following comment:

- She has no issue with the retaining wall

M/s, Green/Newton, motion to approve Resolution No. 17-26, 63 Hickory Road, with the modification made by Commissioner Green

AYES: Green, Newton, Swift, Chair Fragoso

ABSTAINED: Kehrlein, Gonzalez-Parber,

RECUSED: Ackerman

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

Commissioner Ackerman returned to the dais.

DISCUSSION ITEMS

Commissioner Swift stated the Commission has created a "to-do" list of discussion items and she would like to put this back on the radar. Commissioner Green agreed.

Commissioner Green stated he sent staff a suggestion about adding a condition to certain projects encouraging applicants to install small residential rooftop solar and renewable energy systems

pursuant to Town Ordinance No 17.138.200. This would probably need to be run by the Council and the Town Attorney. Commissioner Ackerman stated this was an excellent suggestion for projects where it is practical. He discussed how installing insulation in walls and installing double pane windows can be cost effective and energy efficient.

Planning Director Berto stated this could be an on-going conversation regarding various approaches and options.

MINUTES

4. Minutes from the June 29, 2017 Planning Commission meeting

M/s, Green/Swift, motion to approve the June 29, 2017 Planning Commission minutes as corrected.

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

ABSTAIN: Ackerman, Chair Fragoso

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 9:57 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary