

FAIRFAX PLANNING COMMISSION MEETING MINUTES  
WOMEN'S CLUB, 46 PARK ROAD  
AND VIA TELECONFERENCE  
THURSDAY, JULY 28, 2022

Call to Order/Roll Call:

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

Commissioners Present: Philip Green  
Robert Jansen  
Brett Kelly  
Mimi Newton  
Cindy Swift (Acting Chair)

Commissioners Absent: Norma Fragoso (Chair)

Staff Present: David Woltering, Interim Planning Director  
Linda Neal, Principal Planner  
Kara Spencer, Associate Planner

### APPROVAL OF AGENDA

Acting Chair Swift asked that the following be placed on the agenda: Interim Planning Director's Comments.

M/s, Newton/Greene, motion to approve the agenda with the addition of Interim Planning Director's Comments after Approval of the Minutes.

AYES: Green, Jansen, Kelly, Newton, Acting Chair Swift

ABSENT: Chair Fragoso

### PUBLIC COMMENTS ON NON-AGENDA ITEMS

Mr. Frank Egger stated it seemed that the Town no longer requires posting a notice about a project on the front of the subject property.

### CONSENT CALENDAR

There were no Consent Calendar Items.

### PUBLIC HEARING ITEMS

- 1. 10 Court Lane; Application #22-12**  
**Request for a Conditional Use Permit, Minimum and Combined Side Setback Variances, and a Design Review Permit for a fifty percent remodel/expansion of an existing 1,460 s.f. 3-bedroom, 2-bathroom, single-family residence into a 1,543 s.f. 3-bedroom, 2 ½ bathroom, single-family residence and rebuild of existing 415 s.f. two car garage in place. APN # 002-105-01; RD-5.5-7 Zone; Talia Friedman and Alec Shuldiner, applicants/owners. CEQA categorically exempt per Section 15301(e)(1).**

Associate Planner Spencer presented the staff report. She answered questions from the Commission regarding the Creek Setback Variance and restoration of the barn.

Acting Chair Swift opened the Public Hearing.

Mr. Alec Shuldiner, applicant, made the following comments:

- He gave a PowerPoint presentation.
- They are using the setback that was agreed upon in the course of the previous application.
- The design stays out of the creek setback.
- When they bought the property there were serious erosion issues and the buildings suffered from a lack of maintenance.
- They have done a lot of repairs including restoring the creek.
- They plan to replace the exterior with Class A materials.
- They plan to make the house more energy efficient.
- Everything in the house is gas powered. The rebuild will make it fully electric.
- The house has been extended twice with “chunks” added on.
- The layout of the interior does not flow and is very inefficient.
- They plan to build a two-car garage with electric charging.

Commissioner Green asked if a shadow study was done. Mr. Shuldiner stated “yes”. Another study will be performed to assess whether solar panels would be worthwhile.

Ms. Sarah Steen, designer, made the following comments:

- Her site plan calls out the creek setback.
- The creek setback is 22 feet from the top of the bank.
- The design is not in the creek setback.
- She gave a PowerPoint presentation.
- The project will help the health and safety of the neighborhood.
- There are limitations to the site including the shape of the property.
- They are maintaining the character of the building.

Acting Chair Swift closed the Public Hearing.

Commissioner Green provided the following comments:

- He has no concerns.
- He is happy the owners are upgrading a building that is in disrepair.
- This is a great project and he is in favor of it.

Commissioner Jansen provided the following comments:

- He agreed with Commissioner Green.
- The project is cleverly done given the constraints.

Commissioner Newton provided the following comments:

- She has problems with the proposed design and concerns with the resolution not referencing the stream, creek setback, and findings.
- The 22-foot line should be referenced along with the statement that the proposal complies with that.

Commissioner Kelly provided the following comments:

- He was initially concerned about the garage and side setback but the owner’s presentation has given him a better understanding.
- He could support the project.
- It looks great.

Commissioner Green provided the following comments:

- The resolution should mention the Tree Permit and include a new titled section that says the following: “Two trees will be removed, one Crab Apple at the front of the house, and one Douglas Fir behind the garage, because their foliage is less than six feet from buildings”. The approval by the Tree Committee should also be mentioned.
- There should be mention on the resolution of the creek setback as suggested by Commissioner Newton.

Acting Chair Swift provided the following comments:

- Reference to the Tree Removal Permit should be added to the title, the second “Whereas”, and under “Now Therefore, be it Resolved”.
- The resolution should include under the Miscellaneous Section: “Prior to removal of any trees not approved by the Planning Commission through this action the applicant shall secure a tree cutting permit if required by the Tree Committee prior to removal of any on-site trees subject to a permit under Town Code Chapter 9.36”.

M/s, Newton/Green, motion to adopt Resolution No. 2022-16 with the following changes: 1) The resolution should mention the Tree Permit and include a new titled section that says the following: “Two trees will be removed, one Crab Apple at the front of the house, and one Douglas Fir behind the garage, because their foliage is less than six feet from buildings”. The approval by the Tree Committee should also be mentioned; 2) Reference to the Tree Removal Permit should be added to the title, the second “Whereas”, and under “Now Therefore, be it Resolved”; 3) The resolution should include under the Miscellaneous Section: “Prior to removal of any trees not approved by the Planning Commission through this action the applicant shall secure a tree cutting permit if required by the Tree Committee prior to removal of any on-site trees subject to a permit under Town Code Chapter 9.36”; 4) An additional “Whereas” clause should be added prior to the Findings to reference compliance with the creek setback per the top of the bank and 22’ distance established as part of the Commissions’ approval of the renovation of the barn.

AYES: Green, Jansen, Kelly, Newton, Acting Chair Swift

ABSENT: Chair Fragoso

Acting Chair Swift stated there was a 10 day appeal period.

**2. 43 Bay Rd.; Application #22-13;**

**Request for Hill Area Residential Development and Design Review Permits for a substantial remodel/expansion of an existing 1,773 s.f., two-story, three-bedroom, two-bathroom, single-family residence with a 516 s.f. two-story addition creating a 2,289 s.f. three-bedroom, three-bathroom, single family residence; APN #001-111-18; Residential Single-family RS 6 Zone; Bill Engelhardt, applicant; Ella and Matt Adams, owners; CEQA Categorically exempt per Section 15301(e)(1).**

Assistant Planner Spencer presented the staff report. She answered questions from the Commission regarding information that is still outstanding; ministerial approvals; missing Design Review information including proposed materials.

Acting Chair Swift opened the Public Hearing.

Mr. Matt Adams, owner, made the following comments:

- They are trying to create a better space to enter the house by moving the entryway.
- The laundry is currently in the second building which is problematic in the winter.
- They are creating a laundry room on the ground floor.
- The bedrooms are upstairs with the addition of one bathroom.
- The project will not affect the neighbors view, shade, or sun.

- They tried to provide all the information necessary without engaging in expensive work without knowing if they could move forward.

Mr. Bill Engelhardt, architect, made the following comments:

- The few remaining outstanding items were reviewed with the Town's consulting engineer and at that time he agreed that it would be appropriate to leave them until the Building Permit stage.
- They consulted with a civil engineer and provided a preliminary drainage and grading plan.
- They hope to get the project approved tonight and submit a final drainage and grading plan during the Building Permit process.
- They wanted to limit time and cost investments.
- They have provided a fairly complete application.

Commissioner Jansen asked about the foundation- the extension is small but sits above a steep grade with a wooden retaining wall. Mr. Engelhardt stated the plan is to do a pier and grade beam foundation. The bedrock is about 3 ½ feet below the soil.

Commissioner Kelly asked about submittal of a rendered elevation as a part of the Design Review Permit. He does not know how to evaluate the project. Mr. Engelhardt stated he submitted a rendered perspective of the project. Commissioner Kelly stated he would like to see what it would look like from the street.

Principal Planner Neal noted there is a front elevation (Page A5.1). It is not a rendering.

Commissioner Green stated the public needs to be able to review these things before the hearing. Some of the missing information would be very pertinent to the neighbors.

Mr. David Kendall, land surveyor, made the following comments:

- A boundary survey and topographic site survey were provided.
- Alignment of the utilities was discussed with the Town's consulting engineer.
- He determined that all of the utilities fall on the north side of the house (in between the house and the road). They would be located during the site excavation.
- He referred to the grading and stated it would be 30 cubic yards- not a lot of dirt.
- The preliminary drainage has been performed by a civil engineer.
- The owner talked to all of the neighbors.

Principal Planner Neal noted the story poles have been up for at least ten days.

Commissioner Green asked if they planned to install solar panels. Mr. Engelhardt stated "yes".

Acting Chair Swift closed the Public Hearing.

Commissioner Newton provided the following comments:

- The Town Engineer is of the opinion that the Preliminary Draining Plan was sufficient and there were no neighbor expressing any questions about the drainage issues.
- She referred to Design Review and stated she was not concerned about the absence of the renderings.

Commissioner Jansen provided the following comments:

- It is unfortunate that there is so much information missing.
- The property is very unique- it is like an island surrounded by roadway.
- He does not see any problems with the project as submitted.

Chair Swift provided the following comments:

- There are required submissions for the Hill Area Residential Develop Permit.
- These are helpful for the Commission and the neighbors in evaluating the project.

Commissioner Green provided the following comments:

- The missing information does not seem to be a problem due to the unique aspect of the property and the fact that the neighbors seem supportive.
- They could add the following Condition: “Location/alignment of site utilities, Grading and Erosion Control Plan, and drainage calculations shall be submitted forthwith to the Building Department. Because of the uniqueness of this property and the approval of neighbors, those items will be deferred for the Public Hearing purpose to the Building Permit stage”.
- He likes the project- it is a rebuilding of an old, derelict house.

Chair Swift provided the following comments:

- She referred to the resolution, page 7, Condition #35, and stated the word “require” should be deleted.

M/s, Jansen/Newton, motion to adopt Resolution No. 22-17, based on the uniqueness of the property and the way it is situated, and understanding that staff can review the different submittals later, and the following changes to the resolution: 1) On page 7, Condition #35, the word “require” should be deleted; 2) On page 3, Condition #5 shall include: “Location/alignment of site utilities, Grading and Erosion Control Plan, and drainage calculations shall be submitted forthwith to the Building Department. Because of the uniqueness of this property and the approval of neighbors those items will be deferred for the Public Hearing purpose to the Building Permit stage”.

AYES: Green, Jansen, Kelly, Newton, Acting Chair Swift

ABSENT: Chair Fragoso

Acting Chair Swift stated there was a 10 day appeal period.

The Commission took a 5-minute break at 9:06 p.m.

### **3. 75 Pine Drive.; Application #22-14**

**Request for a Hill Area Residential Development, Excavation, Encroachment, Tree Tree Removal and Design Review Permits and Parking and Combined Side-yard Setback Variances to construct a 1,417 s.f., 2-story, 2-bedroom, 2-bathroom, single-Family residence with a three car parking deck; Residential Single-family RS 6 Zone; APN # 003-101-06, Lauri Puchall and Turk Kaufman, applicants/owners. CEQA categorically exempt per Section 15303(a).**

Principal Planner Neal presented the staff report. The Town Engineer and Project Engineer agree to the following conditions: 1) The foundation piers shall extend into bedrock and shall be designed to resist lateral pressures imposed by the soils above the bedrock. A slough catchment system shall be installed above the residence and the drainage shall be directed away from potentially unstable slopes. The proposed water catchment system shall be installed to catch water between retaining walls and cuts and fills shall be retained with engineered retaining walls; 2) The location of the dissipater will be located in the field during construction and shall be located on the project plans submitted for the Building Permit. The location shall be approved by the Town Engineer prior to issuance of the Building Permit. The runoff and drainage from the hillside above Pine Drive, the roadbed, the parking deck, and the house will be captured in three V-ditches that will run west to east beneath the parking deck immediately above the new house and at the rear of the new house. Additionally, a two lined system of storm drains will be installed along the east side of the residence- one that will capture surface water from the structure and the other to capture subsurface water and direct the runoff to the energy dissipation system. The excavation of 109 cubic yards and fill of 5 cubic yards is the minimum necessary to allow the redevelopment of this steep hillside site”. Staff is

recommending the additional language to the condition in the resolution regarding the Northern Spotted Owl Nesting Season: “The building prohibition period may be modified if a plan for allowing construction activities during this period is submitted by a qualified biologist and approved by the State Department of Fish and Wildlife with documentation of the approval provided to the Town prior to the initiation of any construction activities. All of the requirements in the plans including potential on-site monitoring must be met by the applicants at all times”. She noted several corrections to the staff report. She answered questions from the Commission regarding Findings for the Parking Variance; the five recommendations from the Project Engineer; if this application is affected by surveyor issues; the reference to a Junior Accessory Dwelling Unit (JADU); if the driveway needs a Variance issued by the Town Council.

Acting Chair Swift opened the Public Hearing.

Ms. Lauri Puchall, applicant/owner, made the following comments:

- This has been a four-year process and their thinking about the house and the site has evolved.
- Their decision-making process with respect to creating the building envelope has been “inside-out” with consideration for a multi-level interior space that mitigates the external steepness of the site.
- They wanted to keep a small footprint- a house that sits lightly on the land.

Mr. Turk Kaufman, applicant/owner, made the following comments:

- He cleared up the overgrown landscaping and found a lot of small Oaks.
- They want the design to settle into the site as much as possible.
- The fenestration will provide a wonderful view out of the house.

Commissioner Jansen asked if the two windows on the east elevation would be operable. Mr. Kaufman stated they want to establish natural ventilation across the house.

Acting Chair Swift closed the Public Hearing.

Commissioner Jansen provided the following comments:

- This is a wonderful design- unique and well thought-out.
- The house shifts back and forth which mitigates being too close to the neighboring properties.
- The lot is an extremely small area.
- The house will have a very low presence from the street. It is well proportioned.
- He could approve the project as it stands.

Commissioner Green provided the following comments:

- He agreed with Commissioner Jansen.
- This is a terrific project.

Commissioner Kelly provided the following comments:

- This is a difficult lot.
- He values the Combined Side Yard Setback requirement.
- This project is exemplary for working within its limits.

Chair Swift provided the following comments:

- She referred to the resolution, Condition #29, and stated the reference to a “sprinkler in the garage” should be deleted.
- A neighbor submitted an email with photographs.
- Consideration should be given to the fact that there is road work being done at the end of Pine Drive and it is a narrow road.
- There should be management of the construction vehicles.

M/s, Jansen/Fragoso, motion to adopt Resolution No. 2022-18 with the revisions cited by the Principal Planner, the deletion of the reference to a “sprinkler in the garage” in Condition #29, and reference to the Parking Variance in the title.

AYES: Green, Jansen, Kelly, Newton, Acting Chair Swift

ABSENT: Chair Fragoso

Acting Chair Swift stated there was a 10 day appeal period.

## **MINUTES**

### **5. Minutes from the Special May 19 and Regular May 26, 2022 Planning Commission meetings**

M/s, Green/Jansen, motion to approve the May 19th minutes as corrected.

AYES: Green, Jansen, Kelly, Newton

ABSTAIN: Acting Chair Swift

ABSENT: Chair Fragoso

M/s, Green/Newton, motion to approve the May 26th minutes as corrected.

AYES: Green, Kelly, Newton, Acting Chair Swift, Chair Fragoso

ABSTAIN: Jansen

ABSENT: Chair Fragoso

### **Interim Planning Director Report**

Interim Director Woltering reported on the Housing Element Update process. Staff and the consultants are working on the initial draft which will be released for public review in late September and then submitted to HCD for a 90-day review. The consultants would like to schedule several working sessions with the Commission to look at the Opportunity Sites and the Objective Development and Design Standards (ODDS). He asked the Commission to get back to him about the following two dates: Wednesday, August 31<sup>st</sup> and Wednesday, September 28<sup>th</sup>.

Acting Chair Swift asked if the review with the consultants would include the Safety Element. Interim Director Woltering stated “no”- the focus would be on ODDS and how they relate to the Opportunity Sites.

Commissioner Green asked if the Commission would meet twice in August (August 25<sup>th</sup> and August 31<sup>st</sup>) and if the meeting with the consultants would have a defined time limit. Interim Director Woltering stated they would meet twice and the meeting with the consultants could have a time limit.

Commissioner Kelly stated providing the Commission with as much information as possible ahead of the special meeting would be helpful.

### **Commissioner Comments and Requests**

Commissioner Green discussed the large tree on Bothin Road that fell on the house next door and broke through the roof. He stated the Town Arborist should take an inventory of trees that might be an issue.

Acting Chair Swift stated the June meeting was cancelled but the agenda included an application to move the Bank of America ATM to the space that formerly housed Avatar. The staff report mentioned that the UPS store had been approved and she wondered why the Formula Business

Code had not been applied. She would like to discuss the application of this code at a future meeting.

## **ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 9:39 p.m.

Respectfully submitted,

Toni DeFrancis,  
Recording Secretary