

FAIRFAX PLANNING COMMISSION MEETING MINUTES
WOMEN'S CLUB, 46 PARK ROAD
AND VIA TELECONFERENCE
THURSDAY, JANUARY 26, 2023

Call to Order/Roll Call:

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

Commissioners Present: Norma Fragoso
Philip Feffer
Robert Jansen (Vice Chair)
Brett Kelly
Mimi Newton
Cindy Swift (Chair)

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

Chair Swift announced that Commissioner Green has resigned from the Planning Commission and there is a vacancy on the Commission.

APPROVAL OF AGENDA

M/s, Jansen/Fragoso, motion to approve the agenda as submitted.
AYES: Feffer, Fragoso, Jansen, Kelly, Newton, Chair Swift

PUBLIC COMMENTS ON NON-AGENDA ITEMS

Chair Swift opened the meeting to public comments.

There were no comments.

Chair Swift closed the meeting to public comments.

CONSENT CALENDAR

- 1. 129 Lansdale Avenue; Application # 23-03
Request for a Conditional Use Permit, Design Review Permit, and a Front Yard Setback Variance for an interior/exterior remodel of an existing 2,442 s.f. single family residence; Removal of approximately 1,700 sq. ft. of impervious paving and stairs; installation of new landscaping and pervious paving; construction of new front entry stairs and porch; and a new, attached pergola and 599 sq. ft. deck. AP # 002-201-36; RD 5.5-7 Residential Zone; Andrew Davis, Fluid Studios, applicant; Kate MacLaughlin and Sampson Goff, owners; CEQA categorically exempt per Section 15301(a).**

Principal Planner Neal stated this item should be continued to the February 16, 2023 meeting due to a noticing error.

M/s, Newton/Fragoso, motion to continue this item to the February 16, 2023 meeting.
AYES: Feffer, Fragoso, Jansen, Kelly, Newton, Chair Swift

PUBLIC HEARING ITEMS

2. 197 Bothin Road; Application # 23-01

**Request for a Conditional Use Permit, Design Review, and a Combined Side Yard Setback Variance for and remodel of a 1,425 sq. ft. single-family residence;
Conversion of the existing 392 sq. ft. attached garage into a 392 sq. ft. JADU;
Construction of a new 302 sq. ft. detached one-car garage; APN # 001-082-46; RS-6
Single-Family Zone; John Clark Architects, applicant; Mike Tzortzis and Shannon Snyder, owners; CEQA Categorically exempt per Section 15303(e).**

Commissioner Feffer stated he has a professional conflict of interest and is recusing himself from this item.

Assistant Planner Spencer presented the staff report. She answered a question from the Commission regarding whether staff received any correspondence from neighbors.

Chair Swift opened the Public Hearing.

Mr. Mike Tzortzis, owner, made the following comments:

- They need more room to accommodate a family member.
- They are also expanding the kitchen and living room.
- The creek flows smoothly and does not come over the bank as the culvert functions well.

Chair Swift closed the Public Hearing.

Commissioner Fragoso provided the following comments:

- This is a really nice design.
- It will be an improvement to the property and the neighborhood.
- There was no specific analysis about the creek and the proximity to the deck in the staff report.
- She likes the fire-rated roof.
- She supports the project.

Commissioner Jansen provided the following comments:

- The design is very smart.
- All the additions to the building by itself do not encroach on the 20' combined setback.
- All the new parts are set back.
- He supports the project.

Commissioner Kelly provided the following comments:

- He agreed with Commission Jansen.
- The project is handsome, well proportioned, and uses materials well.
- The project fits into the landscape well.
- He is not concerned about the combined setback issue because of the odd shape of the site.
- The project would have very little impact on the neighborhood.
- He supports the project.

Commissioner Newton provided the following comments:

- She supports the project.
- She referred to the resolution and suggested the following changes: 1) On page 2, the first paragraph should read: "While *the* proposed project would result *in* the..."

Chair Swift provided the following comment:

- She supports the project.

M/s, Jansen/Fragoso, motion to adopt Resolution No. 2023-01 with the minor corrections made by Commissioner Newton.

AYES: Fragoso, Jansen, Kelly, Newton, Chair Swift

RECUSED: Feffer

Chair Swift stated there is a 10-day appeal period.

Commissioner Feffer returned to the meeting.

3. 67 Tamalpais Road; Application # 22-29

Request for a Hill Area Residential Development Permit, Excavation Permit, Design Review Permit, Tree Removal Permit, Encroachment Permit and Retaining Wall Height Variance, Side Yard Setback Variance, and Combined Front/Rear Side Yard Setback Variance and Driveway Width Variance to construct a 1,772 s.f. single-family residence with a 497 s.f. attached junior accessory dwelling unit and a 315 s.f. attached 1-car garage; Assessor's Parcel # 001-123-03; RS-6 Single-Family Residential Zone; Ron Kappe, architect/applicant; Stephen Altman, owner; CEQA categorically exempt per Section 15303(a).

Principal Planner Neal presented the staff report. She noted the following changes to the Resolution: 1) On page 12, Condition #60 should end after the discussion of the drainage system maintenance agreement; 2) The Dark Sky Compliance Condition (included in Condition #60) should be Condition #61 with subsequent renumbering; 3) The first sentence in Condition #62 shall be eliminated; 4) The addition of Condition #63 which shall read: "The revocable encroachment document memorializing the approved revocable encroachments must be signed, notarized, and recorded at the Marin County Recorder's Office prior to issuance of a Building Permit". She noted there were several corrections to the staff report. She answered questions from the Commission regarding the Combined Side Yard Setback Variance; the Combined Front Rear Setback Variance; the easements; the reference to plans dated July 1, 2021 on page 3 of the Resolution; mislabeled elevations; if Condition #39 takes the Spotted Owl requirement into account; if the letters that staff receives are a matter of public record; parking and the retaining wall; if the neighbor's ADU sits on the property line.

Chair Swift opened the Public Hearing.

Mr. Ron Kappe, architect, made the following comments:

- He is open to questions.
- The deck in the rear is a concrete slab on grade patio with a retaining wall.
- The height of the retaining wall goes from three to twelve feet. It is intended to hold back the hill.
- They estimated 867 cubic yards of excavation.
- The lower level was shown as white in the color elevation but they have no problem changing it to grey.
- The building will be five feet, at its narrowest point, from the building next door.

Mr. Frank Egger made the following comments:

- He asked when the parking decks on the top of the lot were built.
- He thought the lots were merged at the time the decks were approved in the 1970's.
- He is concerned there is overdevelopment of this steep lot.
- The property to the west will be adversely impacted.

Chair Swift closed the Public Hearing.

Commissioner Newton provided the following comments:

- She noted several typographical errors on Page 3 of the Resolution.
- On page 4 of the Resolution, the last paragraph should indicate the corrections to Plan Page A 3.0 and A 3.2 which correctly labels the elevations.
- On page 6, Condition #14 should refer to the January 23, 2023 Tree Committee meeting. Principal Planner Neal stated it could be eliminated given the Commission's action at that meeting.

Commissioner Jansen provided the following comments:

- This is a nice design.
- It utilizes the maximum area that can be put on the site.

Commissioner Kelly provided the following comments:

- If the grey were turned to a white color it might create too much contrast.
- He is on the fence about the color palette
- This is a nice design, quite striking, and well-articulated.
- The design could have another layer of filigree and additional human scale detail.
- It should be more visually inviting to the neighborhood and fit in.
- There are some big bathroom windows on the upper story that look at the neighbor's deck.
- The siting of the building is concerning and sets a bad tone for the neighborhood.
- The building should be moved ten feet to the east.
- The house next door is a fire hazard to the new project.

Commissioner Jansen after consideration of Commissioner Kelly's comments, provided the following additional comments:

- He agreed with Commissioner Kelly.
- The FAR should include the parking pads built in the setback area.
- He cannot make the Findings in Section 17.028070, A(2) and A(4).

Chair Swift provided the following comments:

- The grey sample displayed on the color board submittal would best fit the property.
- The bathroom windows include privacy glass.
- The ADU next door is small and has two windows on the left side. The project would be five feet away from it.
- The project has been sited to one side of the parcel which is a concern.
- She discussed the Design Review and General Plan criteria, requiring evaluation for compatibility with existing development.
- There are options to change the siting to a more central location on the site.
- She cannot approve the project as presented.

Commissioner Fragoso provided the following comments:

- She likes the design.
- It is beautiful but somewhat out of character.
- She is concerned about the huge deck on the side.
- She wondered if some type of level ground could be created at the back.
- She wanted the applicants to shrink the design and set it back a bit.

Mr. Ron Kappe, architect, and Mr. Stephen Altman, owner, made the following comments:

- Moving the project would not be a problem and is not a big deal.
- They might not be able to center it on the site.
- This is a small, constrained site.

- They agreed to a continuance.

Commissioner Feffer provided the following comments:

- He is sympathetic to the comments made by the applicant.
- He shares the concern with respect to the neighbor.
- He would take into consideration the cost and difficulty of moving the project the distance mentioned by the applicant vs. the greater distance mentioned by Commissioner Kelly.
- This is a cleverly designed project on an unusually shaped lot.
- The neighbor's buildings are located on the property line.

M/s, Fragoso/Feffer, motion to continue this application for no more than 90-days to allow the applicants to work with staff and address the issues of concern including the siting, design, massing, architectural character and charm of the building.

AYES: Feffer, Fragoso, Jansen, Kelly, Newton, Chair Swift

The Commission took a 5-minute break at 9:15 p.m.

**4. 229 Tamalpais Road; Application # 23-02
Request for a Conditional Use Permit to construct a 615 sq. ft. deck onto the north side of the existing single-family residence; Assessor's Parcel # 001-054-22;
RS-6 Single-Family Residential Zone; Laura Kehrlein, Fredric C. Devine Architects;
Dan Cardozo, owner; CEQA categorically exempt per Section 15301(a).**

Principal Planner Neal presented the staff report. She answered questions from the Commission regarding whether this could be a ministerial item handled by the Planning Department if a way could be figured out to amend the code so that staff could have authority over at least some of the simpler projects that currently require public hearings and discretionary review and approval by the Planning Commission; if there is an enclosed sauna included in the plans.

Chair Swift opened the Public Hearing.

Ms. Laura Kehrlein, architect, made the following comments:

- This is a straightforward project with a low level deck in a semi unimproved area of the lot.
- New plans were submitted that eliminated the sauna.
- The adjacent neighbor to the north supports the project.
- They will be using sustainable decking material.
- She asked if Condition #2, pertaining to obtaining approval of the plans by the RVFD, MMWD and RVSD, would apply to this project. Principal Planner Neal stated she would check with the Building Official.

Chair Swift closed the Public Hearing.

Commissioner Fragoso provided the following comments:

- This project improves the access, livability, and safety of the house.
- This is a straight forward design.
- She likes it.

M/s, Jansen/Fragoso, motion to adopt Resolution No. 2023-02 with the correction of the cover drawing to not include a sauna.

AYES: Feffer, Fragoso, Jansen, Kelly, Newton, Chair Swift

Chair Swift stated there is a 10-day appeal period.

Minutes

5. Review and approval of the minutes from the October 27, 2022 and the December 15, 2022 Meeting

M/s, Fragoso/Newton, motion to continue the October 27, 2022 minutes and approve the December 15, 2022 minutes as corrected.

AYES: Feffer, Fragoso, Jansen, Kelly, Newton, Chair Swift

Planning Director's Report

Interim Planning Director Woltering reported the Housing Element project is moving forward with a new consulting team. The document will be put out for a 30-day local public review sometime at the end of February or early March, submitted to the Town Council thereafter with comments received and responses to those comments, and then to Housing and Community Development (HCD) for a 90-day public review. It is expected that the document would then be reviewed by the Commission and Council in June. He sent an email regarding the upcoming Planning Commissioners Academy at the end of March. He encouraged the Commissioners to attend.

Commissioner Newton asked about the Commission's role in the Housing Element update. Interim Planning Director Woltering encouraged Commissioners to review and make comments when the local public review draft is released. The Commissioners' comments would be reviewed, responded to, and forwarded on to the Town Council for consideration before the draft Housing Element, the comments, and the responses would be forwarded to HCD.

Commissioner Comments and Requests

Commissioner Newton thanked retired Commissioner Green for his many years of service.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:05 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary