

FAIRFAX PLANNING COMMISSION MEETING MINUTES
WOMEN'S CLUB, 46 PARK ROAD
AND VIA TELECONFERENCE
THURSDAY, JULY 20, 2023

Call to Order/Roll Call:

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

Commissioners Present: Philip Feffer
Robert Jansen
Brett Kelly
Mimi Newton (attending remotely)
Cindy Swift (Chair)

Staff Present: Linda Neal, Principal Planner
Kara Spencer, Assistant Planner

Commissioner Newton announced she is participating remotely.

APPROVAL OF AGENDA

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

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR

There were no Consent Calendar items.

PRESENTATION OF RESOLUTION OF APPRECIATION TO NORMA FRAGOSO

Chair Swift read the Resolution.

Chair Swift opened the meeting to public comments.

The Webmaster thanked former Commissioner Fragoso for connecting her with the Commission.

Chair Swift closed the meeting to public comments.

The Commission thanked former Commissioner Fragoso for her years of service.

M/s, Newton/Jansen, motion to adopt the Resolution of Appreciation to Norma Fragoso
AYES: Feffer, Jansen, Kelly, Newton, Chair Swift

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

PUBLIC HEARING ITEMS

1. 109 Broadway; Application #22-22

Continued consideration of a request for a Fence Height Variance, Design Review Permit, Tree Removal Permit and an Encroachment Permit to erect an 8-foot tall fence along approximately 350 linear feet of the rear property line along Spruce Road and install a planting buffer within the Spruce Road right-of-way; APN #'s 001-148-13 Service Commercial CS Zone; Fairfax Lumber and Hardware, applicant; San Rafael Lumber Company, owner; CEQA categorically exempt per Sections 15303(e)

Principal Planner Neal presented the staff report. She answered questions from the Commission regarding whether the green zones outside of the fence will include plantings; the additional language pertaining to maintenance of the fence; the options with respect to the trees; if the Tree Committee recommendation (one-to-one replacement) is part of the plan.

Chair Swift opened the Public Hearing.

Mr. Gary Roth, landscape architect, made the following comments:

- The plan is simple from a design perspective but complicated due to the constraints.
- Clearance between tree crowns is necessary.
- There is 10-foot horizontal clearance requirement from the edge of the road.
- The one-to-one replacement ratio would be difficult.
- A metal fence is proposed for fire safety reasons.

Mr. Roth answered questions from the Commission regarding the selection of the metal color from a design perspective; if the fence could jog around several of the trees so they could be retained; if there were species of trees that would not grow into the canopy of other trees; if it were possible to “green-up” the outside of the fence given its current lay-out and property lines; what he would do to accommodate the recommended one-to-one plantings.

Mr. Peter Scott, Spruce Road, made the following comment:

- The fence is not a solution for the dust which is causing health problems.

Ms. Susie Bergen, Spruce Road, made the following comments:

- This is about the dust- the fence does not prevent the dust from entering her home.
- The trees give some recourse for the dust.

Mr. Brian Bergen, Spruce Road, made the following comments:

- There are three issues- the fence, the dust, and the noise.
- The idea of a wooden fence as a fire hazard is a “red herring”.

Ms. Hillary Whitman, Spruce Road, made the following comments:

- Huge plums of dust come over onto her property.
- She asked the Commission to uphold the Tree Committee’s recommendations or require some other form of remediation such as paving the yard.

Ms. Billie Horn, Spruce Road, made the following comments:

- Property values are affected due to the dust and the visual blight.
- More discussion needs to happen.

Mr. Dave Smadbeck, Executive Director of the Chamber of Commerce, made the following comment:

- He spoke in support of Fairfax Lumber.

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

- An 8-foot fence would provide screening.
- It could be a combination corrugated metal/wood panel fence.

Ms. Kendra Scott, Spruce Road, made the following comments:

- She would like Fairfax Lumber to take some reasonable measures to make the street livable.
- It now suffers from toxic dust and they need the trees as a filter.

Chair Swift closed the Public Hearing.

Commissioner Jansen provided the following comments:

- There are three intermingled issues.
- They need to take one step at a time.
- A fence would help a bit with the dust problem.

Commissioner Feffer provided the following comments:

- The dust is the major concern and should be addressed.
- He would defer to the arborist with respect to the trees.

Commissioner Kelly provided the following comments:

- The Commission should honor the Tree Committee's recommendation.
- The fence needs a redesign.
- The location of the fence needs to be considered.

Commissioner Newton provided the following comments:

- She likes the design of the fence with the metal and the wood.
- She is leaning towards approving with the Resolution as recommended by staff with some additional Conditions of Approval.

Chair Swift provided the following comments:

- She respected the arborist's report.
- The metal fence supports the concerns about fire.
- She could approve the application tonight.

Senior Planner Neal stated the Commission must take action tonight on the application due to the Permit Streamlining Act or get written approval from the applicant for a continuance of no more than 90 days.

Augie Venezia, representing Fairfax Lumber, made the following comments:

- He would like to achieve one piece of this project- the fence.
- They are relying on an arborist and landscape architect with respect to the trees.

Commissioner Newton provided the following comment:

- She had some changes to the Resolution.

Senior Planner Neal suggested some changes to the Resolution.

M/s, Newton/Swift, motion to adopt the Resolution No. 2022-30 with the additional changes recommended by Senior Planner Neal and Commissioner Newton.

AYES: Newton, Chair Swift

NOES: Feffer, Jansen, Kelly

Chair Swift stated the application has been denied.

Augie agreed to a continuance.

Commissioner Jansen provided the following comments:

- The fence should go around the trees- the whole or parts.
- New tree locations should be identified on the property.
- The applicant should find additional trees to preserve or add more new ones.
- There should be a plan for the areas identified in green.

Commissioner Kelly provided the following comment:

- The fence could be offset from the property line a couple of feet with a two-foot strip of planting.

M/s, Newton/Kelly, motion to continue this application until the September Planning Commission meeting with the instructions to the applicant in accordance with this evening's conversation.

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

2. 30 Park Lane; Application #23-17

Request for a Hill Area Residential Development Permit, Design Review Permit, and Variances to construct/rebuild a 951 square foot residential structure with an 80 square foot addition (1,031 square feet total living space) and a new attached 200 square foot garage; AP # 001-032-12; RS-6 Single Family Residential Zone; David McNutt, owner/applicant; CEQA categorically exempt per Section 15303(a)

Assistant Planner Spencer presented the staff report. She answered questions from the Commission regarding the list of conditions that have been added; dimensions and measurements for the space inside the garage; changes required resulting from switching from an office to a bedroom; if staff received correspondence from neighbors.

Chair Swift opened the Public Hearing.

Mr. David McNutt, owner, made the following comments:

- The residence is dilapidated- walls are not plumb, etc.
- The existing foundation is adequate per his structural engineer.
- The egress windows will be 6.6 square feet.

Mr. McNutt answered questions from the Commission regarding parking; if there is a stairway leading down to Scenic.

Mr. Ray Ratta, Park Lane, made the following comments:

- He lives next door to the applicant.
- He supports the project.

Chair Swift closed the Public Hearing.

M/s, Jansen/Kelly, motion to adopt Resolution No. 2023-15.

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

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

3. 34 Hill Avenue; Application #23-18

Request for a Conditional Use Permit, Design Review Permit, Excavation Permit, Tree Removal Permit and Minimum and Combined Side-Yard Setback Variances to construct a new single-family residence; AP #002-214-01; RS 5.5-7 Residential Zone; John Simenic,

applicant/architect; CEQA categorically exempt per section 15303(a)

Principal Planner Neal presented the staff report. She stated she received a letter from the owner of 32 Hill Avenue expressing concerns about drainage. She answered questions from the Commission regarding when story poles are required; the difference in the survey lot boundary between the two neighbors; if the new lot line extends beyond the property; if this applicant has been subjected to different standards than others; if the side setback would be affected if the property line shifted three feet; drainage issues and concerns; if water is allowed to run off this site to the neighboring site; location where the street will be widened; the side setback on the east side.

Chair Swift opened the Public Hearing.

Mr. John Simenic, owner/applicant, made the following comments:

- The neighborhood consists of non-conforming parcels.
- He discussed the design and how it came together.
- He tried to address all of the neighbor's concerns.
- He is using natural materials in a modern way.

Mr. Simenic answered questions from the Commission regarding whether he spoke to the neighbor on Belle Avenue and the neighbor on Pastori Avenue; the drainage plan; uncovered parking and the fence/gate; what would be along the bump-out on 32 Hill; the bedroom windows.

Mr. Aaron O'Brien, Hill Avenue, made the following comments:

- He lives on the adjacent property.
- There are differing surveys for both properties.
- Two-story story poles should have been erected.
- He is concerned about parking during construction, the dark color of the building, and drainage.

Ms. Barbara Schindliss, Pastori Avenue, San Anselmo, made the following comments:

- She is worried about drainage onto her property.
- She does not care what the house looks like.

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

- There have been drainage issues for decades in the Hill Avenue neighborhood.
- A 3-bedroom, 2 ½ bath house is large for this tiny lot.

Ms. Diane Nichols, Oak Knoll Avenue, made the following comments:

- She is concerned that the project would block her view.
- Parking in the area is difficult.
- The top part of Hill Avenue is often flooded.

Ms. Ivy Christensen, Oak Knoll Avenue, made the following comments:

- This is a beautiful and thoughtful design.
- She supports the project.

Mr. Colten Christensen made the following comment:

- He supports the project.

Mr. Riley Hurd, land use attorney, made the following comments:

- Property line issues are civil matters.
- The Town surveyor reviewed both surveys and "agreed with the Oberkamper map on file"- the one submitted by the applicant.

Chair Swift closed the Public Hearing.

Chair Swift provided the following comments:

- Story poles make it easier for the community to look at a project.
- The front of the property is not broken up as far as the design. It is kind of a block.
- Information has come forward in the last several days that might not have been accessible to the community.

Commissioner Jansen provided the following comments:

- This is a small, flat lot and the design utilizes it to the max.
- He likes the design.
- He is concerned about the side setback (east property line). He cannot find grounds for the variance. There is no hardship.

Commissioner Kelly provided the following comment:

- The value of the setback is safety as well as creating openness between structures.

Mr. John Simenic, owner/applicant, made the following comments:

- There is precedence for setback variances in this neighborhood.
- This is a trapezoidal shaped lot.

Commissioner Kelly provided the following comments:

- The living room could be longer and skinnier. The kitchen could be shorter and fatter.
- He agreed with Commission Jansen with respect to the side setback.
- He generally supports the project.

Commissioner Feffer provided the following comments:

- He is generally in support of the project.
- This is an odd shaped, small lot.
- He could support the Side-Yard Setback Variance.

Commissioner Newton provided the following comments:

- She can go either way.
- She is not opposed to the side-yard setback in this circumstance. The encroached upon neighbor is the applicant.

Chair Swift provided the following comments:

- She would like to see story poles.
- She suggested a continuance so the applicant could address the Commissions' concerns.

M/s, Swift/Kelly, motion to continue the application to the next meeting so the applicant has time to review the requirement and the need for the variance on that side from a redesign perspective to see if he really needs that, to get some story poles up, to give the community time to look at the material that has been provided and then to go in the field and find those the markers.

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

4. 10 Court Lane; Application #23-19

Request for a Conditional Use Permit, Design Review Permit, and Variance to remodel an existing single-family residence, reconstruct/remodel the front porch and access deck, replace the flat roof with a peaked roof, remodel approximately 388 sq. ft. to create a ½ bathroom and additional storage, reconstruct the rear yard pergola, and install a deck off the east side of the building; AP #002-105-01; RD 5.5-7 Zone; Talia Friedman, applicant; Talia and Alec Shuldiner, owners; CEQA categorically exempt per Section

15301(a)

Principal Planner Neal presented the staff report. She answered a question from the Commission regarding if this is a replacement “in-kind”.

Chair Swift opened the Public Hearing.

There were no comments.

Chair Swift closed the Public Hearing.

Commissioners Kelly, Jansen, and Newton provided the following comments:

- They support the project.

M/s, Jansen/Kelly, motion to adopt Resolution No. 2023-17 with one correction.

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

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

Discussion Items

5. Principal Planner will discuss proposed changes to the minutes taking protocol

Principal Planner Neal presented the staff report. She answered questions from the Commission regarding the Council minutes; how long YouTube videos will be maintained; retention schedule for audio recordings.

Chair Swift opened the meeting to public comments.

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

- He was concerned about the presentation of a record should there be a lawsuit.
- Certain items need detailed minutes.

Mr. Todd Greenberg made the following comment:

- He suggested that the Town use a transcription service.
- He is opposed to briefer minutes and would like to see more transparency.

Webmaster Tanya made the following comment:

- There are transcripts of the meetings on Zoom- it is a “voice to type” file.

Chair Swift closed the meeting to public comments.

Commissioner Newton provided the following comments:

- The most detailed way of preserving what goes on during a meeting is through the video.
- She has no objection to shortening the minutes.

Chair Swift stated she would like to continue this item.

Minutes

6. Review and approval of the minutes from the May 20, 2023 meeting

It was the consensus of the Commission to continue the May 20, 2023 minutes to the next meeting.

Commissioner Comments and Requests

Chair Swift stated she would like an update on the Housing Element at the next meeting.

Planning Director's Report

There was no report.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 11:37 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary