

MILL VALLEY PLANNING COMMISSION

MINUTES

REGULAR MEETING OF MONDAY, MARCH 24, 2014

COUNCIL CHAMBERS, CITY HALL, 7:00 PM

26 CORTE MADERA AVENUE

PLANNING COMMISSION MEMBERS:

Steve Geiszler - Chair
Ricardo Capretta – Vice-Chair
Anne Bolen
Frederick Eisenhart
Chris Skelton

(00:01:44)

CALL TO ORDER

(00:01:52)

ORAL COMMUNICATIONS: Time for comments from members of the public on issues not on this Planning Commission agenda. (Limited to 3 minutes per person.)

(00:05:16)

PLANNING AND BUILDING DIRECTOR'S ORAL REPORT: Report on items being considered by the City Council.

LIAISON REPORTS: None.

APPROVAL OF MINUTES: FEBRUARY 10, 2014

It was **M/s** by Commissioner Skelton/Vice-Chair Capretta to approve minutes from FEBRUARY 10, 2014 as amended. The motion was carried 3/0 with Commissioners Bolen and Eisenhart recusing.

(00:08:35)

APPROVAL OF AGENDA:

It was **M/s** by Commissioner Skelton/Commissioner Eisenhart to approve the agenda as amended. The motion was carried 5/0.

PUBLIC HEARINGS

(00:09:20)

- 1. 32 Lovell – Daniel Archer – Appeal of a Zoning Administrator Decision for a Design Review, and Variance – File No. PL13-4100 (Zanarini) An APPEAL hearing of the Zoning Administrator approval of a Design Review and Variance for the demolition of an existing detached garage and construction of a new 360 square foot garage with a 476 square foot dwelling unit beneath the garage on a 5,250 square foot lot. The subject property is in the RM – 1.5 (Multi-Family Residential – 1,500 square foot lot area per dwelling) Zoning District.**

32 Lovell Avenue doc

(00:09:34)

Staff Presentation from Associate Planner, Tom Zanarini

(00:16:07)

Presentation from Applicant, Daniel Archer

(00:44:39)

Public Comment

(01:25:26)

Commission Deliberation

Commissioner Skelton began by stating that although members of the public stated they fear this will set a precedent, it will not, because each application is reviewed under its own facts. He said the Zoning Ordinance has evolved and pertains to the City as a whole, the hillsides and the downtown, and the Design Review Guidelines, which were created for hillside development, are being reorganized with potentially separate guidelines being enacted for hillsides versus the flats. He said he appreciates the large community outpouring pertaining to this application, which will have a great impact on the community. However, he finds it disheartening that there was a breakdown in the process, but the City is doing all it can to refine the process and ensure these types of breakdowns do not happen again. He stated as a policy he does not believe incline replacements should be allowed for nonconformities. In this instance there is a nonconforming use and the proposed design includes either rebuilding in kind and/or increasing the intensity or use of that nonconformity. He believes this type of nonconformity needs to be phased out and in this case the structure has exceeded its lifetime expectations. He said he doesn't think the project proponent adequately addressed any of the variance findings that the Planning Commission is required to make. He agreed with the public comments that this is a self-made hardship created by the parking requirement, which results in the need for the variances, and without the parking there is no need for building within the setback. He also does not believe that granting the proposed development is necessary for the preservation and enjoyment of reasonable property rights. He said he likes the green features of the project. He also said that as a standalone unit no affordability aspect would be required by the code and it could be rented at a price of the owner's choosing. He stated if the project were to come back to the Commission he would like the four

variances findings to be shown or he would propose building a structure that conforms to the lot, which would assist in the parking discomfort for the neighborhood and improve a dangerous structure. He said he could not make the findings to deny the appeal or approve the design review application. He also said he found the design review application project materials to be insufficient.

Vice-Chair Capretta stated the applicant has a right to have this project considered by the Planning Commission under the older rules. He said that with respect to comments regarding views, the City has rejected having any view ordinances, meaning if the zoning allows for a larger structure than what is there and it is legal and done right, then the Planning Commission has no choice but to approve a legitimate application. He also said he believes this street is the worst parked street in Mill Valley and with the angled parking there could be fire truck problems. He stated that in a situation like this with such tight tolerances it is critical that there is a licensed survey and an existing plan so that the exact impact of the existing setbacks can be analyzed. He noted there is one structural problem in that the project does not comply with Section 20.08.158 of the Zoning Ordinance, which is Infringement into the Right-of-way. He also said he believes there is a solution, because Section 20.60.140 states a nonconforming structure can be enlarged or modified as long as the nonconforming side yard setback portion is not increased, meaning if the garage is 18 feet, enough for a legal garage, and the side yard setbacks can be enlarged or modified, that means the current width can remain and a variance is not needed. He agreed with Commissioner Skelton regarding the hardship on variances. He believes a 25-foot lot does not constitute a hardship because the applicant knew the width of the lot when it was purchased and needs to design to that width. He asked because there needs to be four full size parking spaces to make the unit work how do you get four legal, standard 9x20 spaces, how do you not change side yard setbacks, and how do you enlarge or modify that existing structure so it complies with Section 20.62.040? Then if there is another portion of the structure outside this structure in front of it, that's a new portion that would need to comply with the 5 foot, 2 inch setbacks. To clarify his comment that the parking plan as proposed wouldn't work because of the 50% rule, he said the plan shows 20 feet from face of curb to front of garage and Section 20.08.158 says, "Parking space shall mean a space of at least 9x 20 feet located entirely off the street right-of-way and on the lot where the building or use which it serves is located." He said Public Works had commented that they have been allowing a 50% encroachment into that portion of the right-of-way that's being parked, which would mean one could encroach into 4 feet of the 8-foot right-of-way encroachment, meaning if a car came all the way to face of curb it would be stick out, so maybe the 50% rule would be a decent compromise.

Commissioner Eisenhart stated parking is clearly a problem on Bayview, but parking is tight everywhere and the reality is there would be more parking if this garage was put into practice and if there were more off-street parking. He said it sounds like in general people are in favor of this structure being used as a garage again and he believes that is a good direction to go while making sure to conform to the rules going forward.

Commissioner Bolen agreed that everyone wants to conform to the code and said she believes that rehabilitating the garage would be a good thing, however she is not sure there is a basis to tell the owner that they can't have a residential unit there because it is her understanding that they are entitled to a third unit.

Chair Geiszler stated that with respect to the variances he doesn't see that there is a hardship because this is a 25-foot portion of a lot that is attached to another lot. He also believes this is a self-made hardship because when the two additional parking spaces were built on Lovell they made this property conforming from a parking standpoint. He said the Planning Commission has granted variances for garages if they are on a steep hillside and can't be put further back in the setback, but that is the only variance he has voted for since being on the Commission. He said he is not in favor of expanding the nonconformity or moving the structure, because if the parking can't be placed on the site and meet all the setbacks then that third unit shouldn't be there because the property would be overdeveloped. He stated if the applicant comes back with a proposal showing how they can conform to the parking while not increasing the nonconformity and creating the third unit, then the Commission could look at that application. He also said he is concerned about the reality of saying these are parking spaces for the Lovell units when there have been comments made about not disturbing the privacy of that unit, so the reality is these parking spaces probably won't be used for Lovell. He said he believes this structure, regardless of its structural condition, should be able to be rebuilt in its exact same volume footprint with no expansion, although if it expanded underneath it and it still sat within the skirt of the building he would be fine with that because it wouldn't increase the volume of the nonconformity. He said he is not in favor of granting the variances and approving the project as submitted.

Commissioner Skelton stated that from a policy standpoint he believes that a nonconformity should not be allowed to be "renewed" by rebuilding in kind into the setback. He believes the structure has exceeded its life expectancy and only where it would absolutely forbid any use of the property would he think making an exception of variance type finding would work, but here a narrower single-car garage or some other use could be built in this space. He commented that if and when the applicant comes back to the Commission, one thing he wrestled with when walking the property was the privacy aspect with having three large windows. The Commission hasn't confronted the privacy issue in a multi-family residential unit before and he asked where the Commission falls with respect to privacy and the ability of a property owner to waive internal privacy rights to themselves with the privacy issue being internal between the different units.

Commissioner Eisenhart stated he is not in support of the variance, because by moving the garage back it takes additional nonconforming use, and by leaving the garage where it is it could be rebuilt without any additional nonconforming use and he finds that to be reasonable.

Commissioner Bolen stated she was not prepared to approve the variance without seeing the survey and hearing more about what the applicant can do.

Vice-Chair Capretta stated said he does not support the variance and he doesn't think a variance is needed. He said there is a carve-out here given specifically to the applicants and they have a right to use that carve-out. He said he reads the section as saying, "Any residence which is nonconforming as to required yards only," the yards being the side setbacks and the street setback, "residence may be enlarged or modified providing the nonconformity is not increased," and the nonconformity in this case is the side yard setbacks.

Commissioner Skelton stated the sentence does read, “Any single-family residence,” and asked if this is a single-family residence as it stands now? He said to him it is a detached garage with a storage unit underneath and clearly does not conform to any building code or any habitability standards.

Chair Geiszler said that the lot being split with two zones complicates this situation, but to him the way this is being developed and what is being asked for is a multi-family situation. He thinks it is legal nonconforming, that that volume could be maintained, and an addition could be done to it in a conforming way. He also said that if the Commission had a survey and more information it would not change how they feel about the variances and therefore if the Commission feels variances are not appropriate for this property they can make a motion and move on, giving the applicant the right to redo their application and bring it back or appeal the Commission’s decision to the City Council.

(02:14:28)

It was **M/** by Commissioner Skelton/to approve the appeal and deny the variance request for 32 Lovell Avenue.

The motion failed for lack of a second.

(02:25:51)

It was **M/s** by Commissioner Skelton/Commissioner Capretta to continue the appeal of 32 Lovell Avenue to a date uncertain.

The motion was carried 5/0.

(02:27:31)

- 2. 148 Elm Avenue – Sustainable Architecture & Consulting – Design Review – File No. PL13-4195 (Zanarini) A DESIGN REVIEW for a project which includes remodeling an existing home, a 169 sq. ft. addition to the main level, and a 922 square foot addition to add an upper level. This project has been determined to be exempt from further environmental review under Section 15303(a) of the California Environmental Quality Act (CEQA) Guidelines. The subject property is in the RS-6 (Single-Family Residential – 6,000 square foot minimum lot size) Zoning District.**

148 Elm Avenue doc

(02:27:54)

Staff Presentation from Associate Planner, Tom Zanarini

(02:30:13)

Presentation from Applicant, Whitney Schrauth

(02:54:19)

Public Comment

(03:31:39)

Rebuttal comments from Applicant Whitney Schrauth

(03:35:27)

Commission Deliberation

Vice-Chair Capretta began by stating increased gentrification in the triangle has resulted in more second story homes, which is what the triangle is zoned for. He said it would be good to see some sidewalk spot elevations and some finished floor levels on the plans. He also said with respect to the site layout, a couple of hundred more square feet could be put on the ground floor to have more of a two-thirds/one-third ratio, that considering some of the site characteristics more square footage on the first floor would be better with less square footage on the second floor, as many neighbors would like to see. He said there would need to be design changes to get to the allowable limit of square footage, because the garage, at 19x21, is almost double the square footage calculation, only one square foot under the max, so there will need to be an adjustment there, and he scaled off the second unit at 360 square feet instead of 340, which is another 20 square feet. He also said the Commission definitely needs to see a landscape plan. He noted the nonconforming extension above the existing roofline of the stair is not allowed and would need to be adjusted. He said the center hall has a 12.5-foot ceiling height for a 4-foot wide space, which he believes would be out of scale, but there are creative things that could be done with the top ridge to get it down. He suggested with respect to height elevations and plate heights that perhaps more dormers could be looked at. With respect to the elevations, he said he would like to see a little more wainscoting, more of a base to the house, because a lot of the house has horizontal siding going right to the bottom. He said he doesn't like the colors, which are too bland and he would like to see more of a mixture of materials and character. He applauded the gray water system. He stated he'd like to see the fencing defined in the application. He recommended continuing the application because there are significant aspects of the square footage/massing issue that needs to be addressed.

Commissioner Skelton stated there is room for improvement on the height, bulk and mass aspect, and although he isn't sure it needs to be a two-third/one-third split between the first and second story, he agrees with Vice-Chair Capretta that the vaulted ceiling seems excessive. He recommended lowering the roof pitch from 7/12 to 6/12, which he doesn't believe would compromise the design aesthetic. He said he doesn't believe the discrepancy in the garage and second unit calculations pointed out by Chair Geiszler would impact the proposal as those areas are going to be exempt and are well within the 500 square foot exemption, however for accuracy purposes the garage should be re-measured and the numbers updated. He said he likes the materials, but he is not sure how the roof finish furthers the project goal of maintaining the historical character and integrity of the house. He agreed with Vice-Chair Capretta that he would also prefer to see the landscaping and fence plans defined in the application. He applauded the applicant's willingness to work with the neighbors on those aspects and said he would like to see more landscape mitigation on the property to address some of the privacy concerns raised by neighbors, because there are a number of windows on the property. He said he believes a more robust landscape plan addressing some of those privacy concerns would benefit the project. With respect to privacy and windows, he said the one area where a little redesign would benefit is the master bedroom with its seven windows. He said the pop-out for the staircase is fine and meets

the standards and does not increase or exacerbate a nonconformity but rather minimizes a nonconformity.

Commissioner Eisenhart stated that overall he agrees that the second story makes sense and is within the character of the neighborhood. He said the overall square footage of the project is not the issue, but the fact that the lot is elevated higher than some of the nearby homes combined with the vaulted second story ceiling creates more massing than necessary. He agreed with Vice-Chair Capretta regarding adding more square footage to the first floor and less to the second floor. With respect to privacy, he agrees with Commissioner Skelton that a landscaping plan could help show how to mitigate some of the privacy issues as well.

Commissioner Bolen stated she agrees with the comments of her fellow commissioners. She said she likes the plans for the house and appreciates the applicants modifying their plans to accommodate neighbors' requests, however it seems there are many people who have privacy concerns and if anything more can be done with height, bulk and mass it would be a good thing to look into.

Chair Geiszler agreed with Commissioner Eisenhart that he is not bothered by the square footage of the house, but he is bothered by the arrangement of the square footage with so much of it on the second floor. He said there are some setbacks from the first story walls, but he would like to see a little bit more. With respect to the roof pitch, he likes steeper pitches roofs, but he doesn't believe this is the appropriate location for it, because the foundation is higher than what the Commission would normally want and it sits up on a knoll. He suggested dropping the roof pitch to 5/12, which would remove 20 inches off the height. He said vaulted ceilings on the inside don't matter, because it is only what the outside looks like that matters. He noted there are gabled roofs everywhere and suggested as a way of getting rid of bulk that the applicant look at successful projects in the triangle that have hipped roofs with some gabled dormers coming through them, which reduces the bulk of the roof plane. He said he was frustrated by the street elevations shown in a flat plane with the other houses, which is not a true representation of what is going on, and that the Commission needs to see a true representation of how this house sits up away from the street and what the elevations of houses to either side of it are relative to this one. He noted there is a requirement to put topography on the plans and said it would help the Commission to understand the project more. He said while the applicants propose to keep a lot of the landscape that is there, giving the Commission information about the landscaping would also help it to understand the landscaping and help get the project approved in some form. He said it is fine to show the future second unit on the drawings, although it would be an entirely new project if they choose to build that second unit in the future and would not be approved in this application. He stated with respect to the staircase that increasing the bulk or volume in a setback would make a nonconforming structure more nonconforming. He said he believes anything new has to fit within the new setbacks, which is consistent with the way Mill Valley's ordinance is written. He pointed out that if a gas insert is put into the wood-burning fireplace the applicant should get confirmation with the building department that the chimney size is okay as it is and that it is accurately represented. He said the materials are fine, that plenty of houses in the neighborhood have those materials, and they are in the vocabulary of what has been approved. He said he does not understand the use of large windows in the bathrooms that face the north. He believes those windows could be reduced substantially and have a major impact on protecting

neighbors' privacy with little impact to the project. He said he is in favor of continuing the application to a date uncertain.

Vice-Chair Capretta suggested the applicant provide a color elevation. He said if the roof plans could show the solar it would be helpful for the neighbors to know that it is more than a metal roof.

Chair Geiszler suggested it would be nice to have a separate roof plan.

Vice-Chair Capretta said a conceptual landscaping plan to show the Commission what is planned for the site would also be helpful.

(04:05:01)

It was **M/s** by Commissioner Eisenhart/Commissioner Skelton to continue the Design Review application for 148 Elm Avenue to a date uncertain.

The motion was carried 5/0.

(04:05:29)

ADJOURN

It was **M/s** by Commissioner Skelton/Commissioner Eisenhart to adjourn.

The motion was carried 5/0.

Any decision made by the Planning Commission on the above items may be appealed to the City Council by filing a letter with the Planning Department within 10 calendar days describing the basis for the appeal accompanied by the \$250 appeal fee.