

Planning Commission
Regular Meeting
April 9, 2013
Martinez, CA

CALL TO ORDER

The meeting was called to order at 7:00 p.m.

ROLL CALL

PRESENT: Harriett Burt, Commissioner, Rachael Ford, Chair, Sigrid Waggener, Commissioner, and Kimberley Glover, Commissioner.

EXCUSED: Donna Allen, Commissioner, Jeff Keller, Commissioner, Paul Kelly, Commissioner & Jim Blair, Commissioner (Alternate)

ABSENT: None.

Staff present included Senior Planner Corey Simon and Code Enforcement Officer Bill Dillard.

AGENDA CHANGES

None

PUBLIC COMMENT

None

CONSENT ITEMS

None

REGULAR ITEMS

Commissioner Burt clarified why the Kramer appeal was carried over from the last meeting.

1. *Kramer Residence 12PLN-0010 Public hearing on an appeal of the approval decision of the Zoning Administrator to grant Use Permit, Variance and Design Review approvals to expand an existing 2-car garage structure within the front yard, adding parking for 2 additional cars and an approximate 800 sq. ft. studio above. Use Permit approval is required to allow an Accessory Structure over 1,000 square feet, in size, with a height of approximately 18 feet when a maximum of 15 feet is normally allowed. Variance approval is required to allow new construction without a front yard, where a minimum 20' yard is normally required to be located at 1020 W. Arlington Way. (Continued from the March 12, 2013, meeting)*
Applicant: Gus Kramer (CS)

Senior Planner Corey Simon briefly reviewed the staff report, discussing the existing site layout and changes proposed for the addition.

Bill Wood, architect, presented the photo simulations, as requested by the Commission at the last hearing, and he discussed the color scheme, proposed site layout, landscaping, proposed retaining wall and pathway. Based on the photo montage, he noted that the new design will help

reduce the massing of the existing structure and improve the streetscape overall.

Commissioner Burt asked about the dimensions of the driveway, which Mr. Wood discussed.

Chair Ford opened the public hearing.

PAUL MARIANO, W. Arlington Way resident and appellant, asked about setbacks between the side of the new building and the property line. He noted that one of the cars pictured in the photo simulation would actually not fit in the space shown. He also added that no one in the neighborhood is concerned about the color scheme - only the bulk and massing of the structure are at issue. He pointed out that the size of this accessory structure will be over 1800 s.f., which is larger than most of the homes in the neighborhood. He concluded by citing a section of City code related to criteria and standards for the size and massing of structures.

Seeing no further speakers, Chair Ford closed the public hearing.

Mr. Wood responded with a brief discussion of the size of the existing house, the size of the lot, City standards for floor area ratio based on the size of the lot, the actual size of the addition, and the total footprint that will result.

Commissioner Waggener asked for clarification on the parking, which Mr. Wood explained.

Chair Ford questioned whether the Commission has jurisdiction over the color scheme. Mr. Simon acknowledged it is a component of Design Review, and he noted that sometimes color can be used to reduce the impacts of a large building. If the Commission wants to weigh in on the color options, they can.

Chair Ford said she preferred color option b (Colors: Benjamin Moore; body "Ashley Gray", trim "Kendall Charcoal"), and she thinks it will help it fit better in the neighborhood. She also indicated that the photo simulations reinforced her earlier support of the project, and she thought the additional garage/parking space will help the parking situation in the neighborhood as well as for the applicant.

Commissioner Burt said for her the pictures confirmed her worst fears, and that putting a structure that large so close to the street will negatively change the character of the neighborhood. She thought a greater front yard setback would be better, and she could not support the project as it is.

Commissioner Waggener said she agreed with Chair Ford, and she expressed that having the building pushed further back would cause more disturbance ecologically. She was appreciative of the colors, especially option b.

On motion by Sigrid Waggener, Commissioner, seconded by Rachael Ford, Chair, deny the appeal and uphold the decision of the Zoning Administrator to grant Use Permit, Variance and Design Review approvals to expand an existing 2-car garage structure within the front yard, adding parking for 2 additional cars and an approximate 800 sq. ft. studio above, with the added

condition of color option b.

Motion passed 3 - 1. Yes: Rachael Ford, Commissioner Sigrid Waggener, Commissioner , Kimberley Glover, Commissioner, No: ,Harriett Burt, Commissioner, Absent: .

Chair Ford reviewed the time period for appeal to the City Council.

2. [DeVaney Citation Appeal hearing for Administrative Citation #132, Case No. 2031043, M.M.C. Section 22.12.020 \(I\) - Protects properties from illumination. Staff requests the Planning Commission hear an appeal of an Administrative Citation issued to the property owner for non-compliance with M.M.C. Section 22.12.020 \(I\) - regarding the placement of flood lights at the front of the residence that are directed onto others properties, located at 50 Brodia Court. Applicant: Kenneth & Rachel DeVaney \(BD\)](#)

Bill Dillard, Code Enforcement, presented the staff report, reviewing the case history, permit requirement for legal installation of the lights, warnings given, Administrative Citation issued and subsequent appeal by the property owner.

Commissioner Waggener asked if there was a particular section of the City Code related to proper installation of the lights. She also asked if there were any other instances when the owners were verbally abusive to staff, and Mr. Dillard said no.

Mr. Dillard shared pictures taken of the lights at night, to illustrate the visual impacts on the neighbors.

Chair Ford asked if the DeVaneys gave any reason as to why they were not complying. Mr. Dillard said no, other than to say the City had no authority in the placement or use of the lights. In response to a follow-up question by Commissioner Waggener, Mr. Dillard noted that the secondary issue is equally important, which is using the indoor extension cord to power the lights outside could result in a fire hazard.

Chair Ford asked how many neighbors had complained, and Mr. Dillard said he did not keep track, especially since some of them were afraid of retaliation and did not want to be identified.

Commissioner Glover asked if there has been any confrontation between neighbors. Mr. Dillard said there had been one incident when the police were called out, but he had no details.

Chair Ford asked if the City would be sending out building inspectors to oversee the process when the wiring is corrected. Mr. Dillard reviewed the next steps in the process.

Chair Ford opened the public hearing.

RANDY NORDHUES, Wildflower Drive resident, passed his phone around showing pictures of the lights shining into his home. He explained how his house sits in relation to the DeVaneys' garage and the lights themselves. Chair Ford asked if he had tried to talk to his neighbor directly. Mr. Nordhues said no and explained his reluctance. He added that he considers the

lights to be light pollution and disturbing the peace, and he didn't understand why they wouldn't just change the angle of the lights and point them downward and/or make them motion-sensitive.

Chair Ford asked, and Mr. Dillard confirmed that Brodia Court was the same street where there was a dispute over placement of garbage cans.

KEN & RACHEL DEVANEY, applicants, indicated they had tried to contact Mr. Dillard but never received a call back. They passed out copies of an email that was sent to the City with their appeal, but wasn't included in the report. They also discussed difficulties they have had with their neighbors, noting that their lights have been up and working for three years, and Mr. Nordhues only contacted Code Enforcement after threatening Ms. DeVaney in front of her children. Mr. DeVaney also indicated they would be willing to correct the problem if they are given guidelines as to how to do it properly. Ms. DeVaney noted there is a light pole directly in front of Mr. Nordhues' house as well.

Chair Ford expressed concern about the issues among the neighbors on the Court, as well as the fact that children are being witnesses to it all. She urged the neighbors to work to resolve the situation. She also stated that the lights are ridiculous and should be corrected before the City levies any more fines. She noted that the Planning Commission is not the proper forum to settle disputes.

Commissioner Burt agreed with Chair Ford that these actions between neighbors is not the proper behavior for adults. She questioned whether the community police officer could help them find mediation to sort everything out. She also noted that Home Depot would have the proper type of lights to give the DeVaneys what they need without affecting the neighbors or involving the City. She indicated that the job of Code Enforcement is a thankless one, and the Commission would be supporting Mr. Dillard in his efforts to ensure that City Codes are followed. She also asked the neighbor who put up the sign branding another neighbor as a liar to take down the sign.

Ms. DeVaney reiterated their need for instruction as to what type of lights they could have and how to properly install them. She asked if they could be given two more weeks to comply.

Mr. Dillard stated that anytime he has tried to communicate with the DeVaneys on this issue or past issues, they are always difficult. He noted that to learn what types of lights are allowed and how to properly install them, they should come down to City Hall and talk with the Building Department.

Ms. DeVaney clarified that they have made other improvements to their home, always with proper permits, etc. The DeVaneys discussed with staff and the Commission the timeline of events, their efforts to change the angle of the lights and whether the lights could remain in use until they are able to get the proper ones installed.

NEIL LOOKER, Wildflower Drive resident, indicated the DeVaneys' lights also shine on their house. He commented on the need for security lights due to theft and vandalism in the past. He thought perhaps the police need to be firmer with the residents, considering the ongoing dispute

and the many police calls but without anyone being charged or taken into custody.

SUSAN COTTIER, Brodia Court resident, noted that security is tight on the Court with several homes having security cameras that face outward. She did not think that lights focusing on the street was necessary or helpful. She indicated that she came to this meeting to show support for other neighbors, and she was sick of the whole issue. She agreed it needed to be resolved, but said she did not appreciate being told she was doing something wrong in her handling of the situation.

LOIS JULIEN, 28-year Brodia Court resident, noted that the problems on the Court only began when the DeVaneys moved in.

Seeing no further speakers, Chair Ford closed the public hearing. She was sympathetic to the neighbors who felt they were not to blame, but she reiterated that everyone needs to work together because what has happened thus far has obviously not worked. She questioned whether the police have done everything they can and/or whether there is anything the Planning Commission can do to encourage stronger action. Mr. Dillard suggested contacting the Chief of Police to find out what programs are available from community policing and what records there are about the situation. He also noted that as far as the DeVaney's request for additional time to comply, the citation that was already issued stated on it that removal of the lights was the way to remedy it.

Commissioner Waggener asked about the ten-day notice he discussed earlier in his presentation. Mr. Dillard said it was the period for filing the appeal.

Chair Ford indicated she was supportive of the administrative citation issued by Mr. Dillard. She cautioned, however, that it did not mean she was more sympathetic to one side or the other in the ongoing neighborhood dispute.

Commissioner Waggener asked, and Chair Ford confirmed that she was referring to the final citation issued, including a 3-day notice to cure the electrical situation.

Commissioner Burt expressed regret that Ms. Cottier felt she was being unfairly blamed, and she noted that her concern was that actions like the sign calling someone a liar are not helpful in resolving the issues. She recommended that the Commission talk with the Police Chief and the City Manager to see what community resources might be available for mediation services.

Commissioner Waggener urged the public to be respectful and not abusive in their interactions with City staff.

On motion by Harriett Burt, Commissioner, seconded by Kimberley Glover, Commissioner, deny the appeal, upholding the action of the Administrative Citation issued to the property owner for non-compliance with M.M.C. Section 22.12.020 (I) regarding the placement of flood lights at the front of the residence that are directed onto other properties, and that the lights be removed within three days. Motion unanimously passed 4 - 0. Yes: Harriett Burt, Commissioner Rachael

Ford, Commissioner Sigrid Waggener, Commissioner , Kimberley Glover, Commissioner.

COMMISSION ITEMS

Mr. Simon said there were no Commission items. He also commented that there were not many items coming up so it might be some time before the next meeting.

STAFF ITEMS

None

COMMUNICATIONS

Chair Ford announced the upcoming craft festival sponsored by Main Street Martinez.

Commissioner Waggener noted she would be on vacation during May.

Commissioner Burt announced she would not continue with the Commission after her current term expires in June of this year.

Chair Ford adjourned the meeting at 8:32 p.m.

Respectfully submitted

Approved by the Planning Commission
Chairperson

Mary Hougey

Rachael Ford