

MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
January 13, 2020

Planning Commissioners Present: Gary East, Lee Hardy, Bob Berman, Jim Hanselman, Bill Branigan, and Jim Patrick.

Planning Commissioners Absent: Mike Franklin (*excused*).

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Commissioners East, Hardy, Berman, Hanselman, Branigan, and Patrick were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission Regular Session Meeting Minutes of December 9, 2019.

Commissioner Berman submitted minor corrections to the minutes.

MOTION was made by Commissioner Berman, seconded by Commissioner Hanselman to approve the Planning Commission Regular Session Meeting Minutes of December 9, 2019 with minor corrections. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** None were heard.

4. **Action Items.**

A. **Appointment of Planning Commission Officers.**

MOTION was made by Commissioner Branigan, seconded by Commissioner Berman to appoint Jim Patrick as Planning Commission Chair. The motion carried unanimously in a voice vote.

MOTION was made by Commissioner Berman, seconded by Commissioner Hanselman to appoint Bill Branigan as Planning Commission Vice-Chair. The motion carried unanimously in a voice vote.

5. **Public Hearings.** At 7:03 p.m. Chair Patrick opened the public hearing portion of the meeting.

Chair Patrick read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Commissioner Berman reported a site visit and an ex parte contact with Mona Linstromberg concerning the variance public hearing at the evening's meeting. Commissioners Hanselman, Branigan, and Patrick reported site visits. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

B. **File 1-VAR-19.**

Tokos reviewed his staff report. He noted the additional public testimony he received that included a letter submitted by Fahrendorf, Gregory and Benedetti which was handed out to the Commission at the meeting,

and an email from Yaron Yuval who lived across the street to say he was opposed to development to the lot in general.

Tokos explained that the City had allowed variances in the past on other properties when there was steep terrain and noted the different variances that had been approved on Spring Street. He reported that there was general recognition that steep terrain was a justification for setback variances. Tokos pointed out that the stub of Spring Street terminated near the location and Mr. Roth would be required to widen the street to 24 feet, along with doing curb and drainage improvements. This meant that if the variance was granted the driveway would be well in excess of 20 feet making it closer to 30 feet.

Berman asked why the previously approved geological report for the property was not included in report. Tokos explained it wasn't included because it wasn't relevant to the criteria of approval for a variance. Hardy asked if there was a recommendation in the geologic report for placement of the buildings. Tokos didn't recall at that time if the language was in the geological report. Hanselman asked what hazard zone was affiliated with this property. Tokos said it was in active and high hazard zones depending on where you were on the property. Hanselman asked if adding fill in the ROW was permissible. Tokos explained that this was done on many occasions for driveways. Hanselman asked if this meant the owners would need to implement larger drainage lines. Tokos confirmed they would. Hanselman had concerns that the trees that were being taken down on the lots would destabilize the bluff. Tokos explained that this was addressed in the geological report but the report wasn't a part of the criteria consideration for this hearing.

Patrick asked if the geological report was based on the current footprint or if it was site specific. Tokos said the report had construction recommendations and the foundations they were proposing could be placed in a number of locations on the property. The report also required specific work on the lots as part of the site prep, including work near Spring Street. Tokos believed this was why they were removing a number of the trees as part of the remedial work they would be doing.

Proponents: Tim Roth addressed the Commission. He thought staff did a thorough job of describing the property, evaluating the application, and showing that all criteria had been met. He explained how Spring Street ended near his property and his development would be required to do improvements to the right-of-way (ROW). Roth noted that the building heights would meet the code. He felt the variance was a logical approach to keep the home away from the shoreline.

Berman asked if Roth had given any consideration for design the dwellings 10 feet shorter to be able to stick to the setback requirements. Roth said the lots were narrow and created some constraints. They couldn't build the homes to certain widths which forced them to be built further back. Roth noted he talked to the City to see if they could vacate any further portions of the ROW but the City confirmed they couldn't. The City thought the more logical thing to do was to ask for a variance. Roth's thoughts were to build the dwellings further away from the embankment to the west.

Hanselman was concerned about Roth's position on building away from the bluff when it meant he would be building on a cliff. He thought there were a lot of options instead of asking for a variance. Roth noted that the geologic permit noted they would be staying away from certain areas of the steep embankment. A discussion ensued regarding the terrain of the lots and how the buildings would be built to allow changes to the current grades. Roth didn't believe the steepest grade on the lots were where they were going to build. Hanselman thought the maps were misleading on this.

Opponents: Mona Linstromberg addressed the Commission. She asked for clarification that the site visits weren't done at the Lund property nearby. The Commissioners confirmed they hadn't. Linstromberg noted that public members had the option to make an appeal of the geological permit that was approved for the property. There were two people who had written letters about the geologic permit but couldn't afford to appeal this site's geological report. Linstromberg didn't think there was enough information in the record to make a decision on the variance. She didn't think the question was answered on designing homes for the property, and thought more consideration could be given to developing the property without a variance.

Hearing closed at 7:42 pm.

Branigan thought the staff report showed that the six criteria had been met. He reminded the Commission that they needed to base their decision on the information presented and it appeared all criteria had been met. Branigan thought reducing the setback to 10 feet was prudent and he didn't have a problem approving.

Hanselman explained that he was having trouble giving approval. He didn't think the applicant meet the unnecessary hardship because they could redesign to meet the setbacks and would then not have to ask for a variance. Hanselman thought the property was better suited for smaller homes.

Berman explained that he had some of the same concerns as Hanselman and noted that before the homes were designed, the applicant knew the rules. Berman thought a smaller house could meet the setback requirements. He thought a variance was a rare occurrence and didn't think the applicant demonstrated that the constraints were sufficient to justify a variance.

Hardy thought the applicant satisfied the criteria. She thought the owners were allowed to design what they wanted and reminded that variances were granted all the time. Hardy had no problem approving the decision.

East thought the staff recommendation had shown that all the criteria had been met and didn't have problem granting approval.

Patrick thought the variance criteria had been met. He noted other variances that had been granted were done for setbacks, and geologic or topography conditions. Patrick objected to developments not having room for cars to park and thought the new street width accommodated this. He didn't have a problem granting approval.

MOTION was made by Commissioner Branigan, seconded by Commissioner East to approve File 1-VAR-19 with the conditions of approval presented. The motion carried in a voice vote. Hanselman and Berman were a nay.

Tokos noted the final order would be brought to the Commission in two weeks.

6. **New Business.** None were heard.
7. **Unfinished Business.** None were heard.
8. **Director Comments.** None were heard.
9. **Adjournment.** Having no further business, the meeting adjourned at 7:49 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant