



City of Sebastopol
Incorporated 1902
Planning Department
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APPROVED MINUTES

PLANNING COMMISSION
CITY OF SEBASTOPOL
MINUTES OF January 11, 2022

PLANNING COMMISSION:

The notice of the meeting was posted on January 6, 2022.

1. CALL TO ORDER: Chair Fritz called the meeting to order at 6:00 P.M. and read a procedural statement.

2. ROLL CALL: **Present:** Chair Fritz, Vice Chair Oetinger, and Commissioners Burnes, Fernandez, and Kelley
 Absent: None.
 Staff: Kari Svanstrom, Planning Director
 John Jay, Associate Planner

3. APPROVAL OF MINUTES:

October 26, 2021

Vice Chair Oetinger moved to approve the minutes as presented.

Commissioner Kelley seconded the motion.

AYES: Chair Fritz, Vice Chair Oetinger, and Commissioners Burnes, Fernandez, and Kelley
NOES: None
ABSTAIN: None
ABSENT: None.

November 9, 2021

Vice Chair Oetinger moved to approve the minutes as amended.

Commissioner Burnes seconded the motion.

AYES: Chair Fritz, Vice Chair Oetinger, and Commissioners Burnes, Fernandez, and Kelley
NOES: None

ABSTAIN: None
ABSENT: None.

4. COMMENTS FROM THE PUBLIC ON ITEMS NOT ON AGENDA: None.

5. STATEMENTS OF CONFLICTS OF INTEREST: None.

6. REGULAR AGENDA ITEMS:

- A. 709 FIRST STREET** – A Public Hearing to consider an application from Lon Chapman at 709 First Street. The applicant is seeking Planning Commission approval for variance of setback reduction. The project proposes to use the existing footprint of the accessory structure to create 658 square feet of storage space along with a 974 square foot accessory dwelling unit. The structure’s foundation is located 2’6” from the northern property line on the parcel.

Assistant Planner Jay presented the staff report.

Chair Fritz asked for Planning Commission questions of staff.

Linda Kelley, Commissioner

When was the original structure built?

John Jay, Associate Planner

I might refer to Lon on potentially giving that information, but I believe it was before building permits would have been required for that structure, fifties or sixties.

Lon Chapman, Applicant

I had the surveyor’s noted pulled in Santa Rosa and from what I saw it was somewhere around 1925. The property was subdivided many times since. There were many structures existing on the property; most of them have been destroyed or taken down for whatever reasons. This was the only structure that was still standing.

Kari Svanstrom, Planning Director

We always have a building official determine whether or not it was legally constructed, and part of that has to do with if there was a permit process in place at time, but also assessing the structure. He has assessed that it would have been constructed with a permit if that were required at the time.

Linda Kelley, Commissioner

The issue that maybe there was a permit process that wasn’t undertaken, so was there a permit required for the demolition of this outbuilding and then just remodeling it?

John Jay, Associate Planner

There would have been a permit for the demolition, and with the remodel portion of the structure being in such a dilapidated status that those remodels would have been necessary to have it up to code and in a manner that would support habitable space and also storage space.

Kari Svanstrom, Planning Director

The question is was there a permit on file or pulled for it? The answer is no, the initial work was done without a permit.

Linda Kelley, Commissioner

Once the project came forward, however that happened, how did we get this permit? Was there some kind of a complaint, or City staff saw that they were remodeling or building?

John Jay, Associate Planner

The Building Department noticed the structure was being remodeled or replaced. Lon might be able to address the exact step-by-step.

Lon Chapman, Applicant

The structure had a solar array on the roof when we purchased it, and the contractor had permits pulled to remove the solar array and put it onto the main structure, which was more stable at the time. The inspector came for that and also red tagged us for the construction that was taking place on the barn at the same time.

Linda Kelley, Commissioner

I know sometimes there is a penalty, and sometimes it's double the permitting fees or whatever, but I don't know if Sebastopol has that.

Kari Svanstrom, Planning Director

Yes, the Building Department as per the unpermitted red tag process can charge an inspection fee; it's either two or three times the building permit cost. It's generally up to the building official to access that. That's separate from the variance that the Commission is hearing tonight.

Evert Fernandez, Commissioner

Regarding the accessory structure requirements, it says that sinks and toilets are allowed; however showers are not allowed. What the reasoning behind that?

John Jay, Associate Planner

To not allow that space to convert easily to a livable space, so limiting the shower and bedroom orientation, if that's the case. The standards are little more strict on habitable space as opposed to non-conditioned space where you could have a utility sink or just a single bathroom in there, like a workshop as opposed to a living dwelling unit.

Evert Fernandez, Commissioner

I can understand why those rules existed in the past, but times have changed and it seems like we'd want to do the opposite. California has come up with some new ordinances, so I'm curious to see if there's any leeway there or what the thinking might be.

Kari Svanstrom, Planning Director

Basically we want to know building code-wise if someone is doing an accessory dwelling unit, which this project includes and which the City encourages, but those have certain health and safety standards. For example, putting a shower in a U-building occupancy is under a different part of the building code that doesn't necessarily have the same health and safety measures, so we don't want those converted without getting a permit, because we want to make sure that someone's not going to be living in a place where they don't have the proper bedroom egress window, or a separation between a heating unit and they get carbon dioxide fumes. We do have allowances for creating ADUs, but we want those to be in ADUs, not illegal conversions because you had a shower in a non-habitable space.

Lon Chapman, Applicant

And we did adjust the plans once we were notified about that, because the original plans had the extra sink and we removed those.

Paul Fritz, Chair

I'm trying to understand this nonconforming facility section of the code. Just so I understand the 50% replacement cost, for example, if the cost to replace the entire original structure was \$100,000, then what they're allowed to do in terms of repairs or remodel work is limited to \$50,000, is that what that means?

Kari Svanstrom, Planning Director

Yes, that would generally be the case. The amount of the replacement cost is the basis, so 50% of the replacement costs, and that's an assessment that our building official makes.

Paul Fritz, Chair

In Nonconforming Facilities, Section 17.160.040, Section B, there's a sentence that says, "Other repairs or alterations may be permitted, provided that a conditional use permit shall first be secured in each case." Is it possible to do this as a use permit rather than a variance? I know there are two issues: a setback issue and the nonconforming use issue. From the nonconforming use standpoint, is it possible that this work could be done with a use permit, because it's more than the 50% valuation?

Kari Svanstrom, Planning Director

That provision is provided that no expansion results in an increase in the number of dwelling units, but you're looking at the last sentence of that. I can show my screen with the code language. As a nonconforming building, no more than 50% of replacement cost as determined by the building official. This structure is beyond that. "Ordinary maintenance and repairs may be made to any nonconforming building, provided no structural alterations are made," beyond a percentage except for single-family residences. This is not a single-family residence.

Paul Fritz, Chair

But that line says that single-family residence may make improvements or expansions. If it's not a single-family residence, you can do ordinary maintenance and repair as long as such work does not exceed 15% of the appraised value.

Kari Svanstrom, Planning Director

And because it's already an existing setback it could potentially be done as a use permit, because it's not expanding the setback nonconformity.

Paul Fritz, Chair

Yes.

Kari Svanstrom, Planning Director

I think the consensus of the Commission is that it should be processed as a use permit. I think certainly that language can apply here.

Paul Fritz, Chair

Going to the setback question then, the ADU section of the code, 17.220.020.F, talks about conversion of existing structures into accessory dwelling units, and it talks about a non-garage, one-story building legally constructed prior to October 19, 2004. The rear setback needs to conform to the setback for an accessory structure, but the side setback is not required. If this were an existing accessory building with a noncompliant side setback, and now they want to put an ADU in it, it sounds like the side setback can be noncompliant in that situation.

Kari Svanstrom, Planning Director

John and Steve Brown from our Building Department have processed a number of these. We have a lot of nonconforming accessory structures in town, and a lot of times people come and talk to the Building Department with a nonconforming side or rear setback. John and Steve will work with them to keep it under the nonconforming 50% demolition limit, and in normal circumstances that can include things like sistering certain parts of the foundation. We try to provide guidance to people so they don't end up in this particular situation, because we want the ADUs, so normally we're able to work with people and get them through to a place where they can do that, and then it does not require Planning Commission approval moving forward.

Chair Fritz opened public comment.

The applicant did not give a presentation, but was available for questions.

Chair Fritz asked for Planning Commission questions of the applicant.

Kathy Oetinger, Vice Chair

Do you know what kind of music will be played within the music studio?

Lon Chapman, Applicant

Guitar.

Kathy Oetinger, Vice Chair

My only concern was whether it would involve drumming.

Lon Chapman, Applicant

No, it won't be a band or drums. It's guitar.

Paul Fritz, Chair

My understanding is it was originally a bar in there, some kind of accessory structure, that from the photos looked like maybe it had a dirt floor originally? There was no floor in there?

Lon Chapman, Applicant

It was originally a large chicken coop that had the roof raised at one point. Then some previous owners built some sort of room inside for a sewing company, and then they went further and built a grow operation inside of it, and that's the reason why the solar array was on top of it, for the grow operation. So, when we got there, there were these two additional rooms and at one point I think there were occupants living in there as well. We found evidence that people were living in there, so it was kind of a mish-mosh of what was inside, but the majority of it was actually broken up concrete and dirt on the floor.

Paul Fritz, Chair

When the reconstruction happened, so the walls are in the same place, it's the same height, the roof is the same pitch. You didn't increase the height or the width or the depth or anything like that?

Lon Chapman, Applicant

The walls are in the same place. The footprint is exactly the same. I can't tell you about the pitch; I'm not too sure about that and I don't want to mislead you. But we tried to actually keep it as much in kind with the structure that was there originally as possible. In fact, we

took off all the wood and reclaimed all the wood on the siding, so it actually looks like it should be there. It looks like it has always been there; it's in keeping.

Paul Fritz, Chair

With the Fire Department requirement for sprinklers and the one-hour wall on the property line, has that work been done, or is that something you would have to undertake if this gets approved?

Lon Chapman, Applicant

That has not been undertaken. We found out about that after the fact, and of course we will do the one-hour wall and the sprinklers, and I think actually the new plans were drawn with the sprinklers and the one-hour wall added in.

Deborah Burnes, Commissioner

Now that you mention that there was a grow room in there, I know that there's been a lot of concern about the chemicals that might have been used inside. It sounds like you replaced all the walls. Is it all new construction?

Lon Chapman, Applicant

When we started actually taking down the roof, the way they built it, there was a space between what was the roof and the new roof, and that was just infested with rats. Every time we did something we uncovered something else that was unsavory about it. We re-poured the foundation because from the years of chickens being in there and the grow operation, we weren't too sure. Sorry if that's too much information.

Deborah Burnes, Commissioner

No, just from a safety dwelling concern.

Lon Chapman, Applicant

We want to be good stewards of the property that we're on and contribute to the community, and so we are trying to do as much as we can to keep the flavor and also make it safe of course.

Paul Fritz, Chair

It seems like the only sort of neighbor that this would impact would be your neighbor to the north. Have you had any conversations with them, or have they had any concerns or issues that you're aware of?

Lon Chapman, Applicant

No, they haven't. We actually replaced the fence that was there, which they were very happy about. But no, no concerns.

Chair Fritz opened public comment. Hearing none, Chair Fritz closed public comment.

The Commission discussed the application as follows:

Evert Fernandez, Commissioner

Regarding some of the stuff that Chair Fritz brought up regarding something being more of a permit issue, do you have a suggestion on that part of it?

Paul Fritz, Chair

That's kind of why I brought it up. I might be able to make some argument for the variance findings, but it seems like it might be an easier route to go the use permit direction, and so I'm happy to hear staff's opinion of that.

Kari Svanstrom, Planning Director

One of the hard findings for a variance is a homeowner can't create the need for the variance themselves; it's just something with the property, such as wanting to avoid removing trees. I retrieved that language, the Other Repairs or Alterations section of the Nonconforming Facility, "Other repairs or alterations may be permitted, provided that a conditional use permit shall first be secured." If they are not changing or increasing the envelope at all, then there is no need for a variance; it could be processed as a use permit for this. And then the findings for the use permit are much simpler to make. I believe you can make the findings for that based on the direction of the Commission.

Evert Fernandez, Commissioner

I'd be leaning towards that direction, unless there's any reason why we shouldn't be.

Linda Kelley, Commissioner

I think that would be a good way to go. I can't imagine how many nonconforming structures we have in town, otherwise we'll be making lots of variances as time goes on, so I like that approach.

Kari Svanstrom, Planning Director

This is sort of turning into a conditional use permit, and I actually would recommend this as a great option with no increase in the nonconformity that we can take advantage of. Conditional use permits are discretionary and are granted by the Planning Commission. The requirements are: 1) that it is consistent with the General Plan, which obviously our General Plan encourages housing units; 2) it is basically the same character as what was already there in that semi-rural part of town, and, 3) that the establishment, maintenance, or operation of the continuing use would not be detrimental to the health, safety, peace, morals, comfort, or general welfare of the persons residing in the area. In that light the Commission can require certain conditions of approval to ensure those conditions are met. Already we have the condition for the one-hour wall to protect the adjoining property and harden that side against fire hazards, as well as the fire sprinklers, which are not required in all ADUs, but they are in substantial ones.

Evert Fernandez, Commissioner

I'm hoping, based on the applicant's intent to try to do the right thing, that not levying those fines be considered based on what they're trying to accomplish.

Kari Svanstrom, Planning Director

I can convey that information to the building official for leniency on that. It is up to the building official, and they end up spending a bit of time, so there is some cost to it, but I can convey that.

Paul Fritz, Chair

I'd agree with that sentiment. It seems like they were doing something they weren't aware was a problem, they're trying to fix it, and they've come to us. I think it's showing good faith, so it would be good if we could try to offer some leniency. Kari, would you bring this back as a use permit at the next meeting with these findings and all the conditions for final resolution?

Kari Svanstrom, Planning Director

Instead of findings for a variance, we will process this as a use permit and make the findings for that and bring that back, and I’m looking to John in terms of the timing. It sounds like it’s pretty straightforward in terms of being almost a consent calendar item, i.e. not needing discussion by the Commission but just putting it in the calendar so that you can review the final findings and conditions, and then take a vote. If John feels he can do the findings and prepare that for the next meeting, the schedule would accommodate you.

John Jay, Associate Planner

I think I should be able to have that ready for the next meeting. Like Kari mentioned, there are only two findings that we have to make. I think overall the project is pretty straightforward and it already kind of meets those requirements, so just getting that in a formal document and putting it in front of your guys to have an official vote on it is manageable in a two-week period.

Paul Fritz, Chair

It shouldn’t take up too much time in the meeting. We’ve talked about it and no one has any concern about that approach, so we should be able to squeeze that in if John can get that done.

Kari Svanstrom, Planning Director

In that case I would recommend a motion to continue the item to the date certain of January 25th. That way we don’t need to re-notice, since anyone who is interested in it should have shown up today or talked to us before today.

Commissioner Fernandez made a motion to continue the public hearing for 709 First Street to a date certain of January 25, 2022.

Commissioner Kelley seconded the motion.

Chair Fritz asked for additional Commission comments.

Linda Kelley, Commissioner

We didn’t get to say to the applicant our thoughts about the project. I appreciate how historically this will blend in, and that the applicant was concerned about not having windows on the north side. It’s a very creative use of the space and reclaiming it. We can’t make assumptions that organic fertilizers and nutrients were used in that grow. We didn’t get to talk about parking or anything, but I know that’s going to be exempt as we go through. Welcome to our community and creating another housing unit is going to be good.

- AYES: Chair Fritz and Commissioners Burnes, Fernandez, and Kelley
- NOES: None
- ABSTAIN: None
- ABSENT: Vice Chair Oetinger

7. REGULAR AGENDA ITEMS – None.

8. SUBCOMMITTEE UPDATES – None.

9. PLANNING DIRECTOR’S REPORT

Director Svanstrom provided updates.

The Commission asked questions of Director Svanstrom.

10. ADJOURNMENT: Chair Fritz adjourned the meeting at 7:00 p.m. The next regularly scheduled Planning Commission meeting will take place on Tuesday, January 25, 2022 at 6:00 p.m.