

ACTION MINUTES #8

**TIBURON DESIGN REVIEW BOARD
THURSDAY, JUNE 5, 2008
1505 TIBURON BOULEVARD**

- A. ROLL CALL:** **Present** - Chair Doyle, Boardmembers Chong and Corcoran
 Absent - Boardmember Glassner
 Ex-Officio - Planning Manager Watrous
- B. PUBLIC COMMENTS (FOR ITEMS NOT ON THE AGENDA)**
- C. STAFF BRIEFING**
- D. NEW BUSINESS BEFORE THE BOARD**
1. 533 Virginia Drive Prosegger/Vraanes Additions/Variance **APPROVED**
 2. 70 Pine Terrace Grove/Bush Fence/Driveway/Appeals **CONTINUED TO 6/19/08**
 3. 19 Place Moulin Valentino Minor Alterations **CONTINUED TO 6/19/08**
 4. Discussion of Late Mail Policy **DISCUSSION HELD**
- E. MINUTES OF THE 5/15/08 D.R.B. MEETING – APPROVED AS AMENDED**
- F. ADJOURNMENT – 9:00 P.M.**

**MINUTES #8
TIBURON DESIGN REVIEW BOARD
MEETING OF JUNE 5, 2008**

The meeting was opened at 7:00 p.m. by Chair Doyle.

A. ROLL CALL

Present: Chair Doyle, Boardmembers Chong and Corcoran
Absent: Vice-Chair Glassner
Ex-Officio: Planning Manager Watrous

B. PUBLIC COMMENTS - None

C. STAFF BRIEFING

Planning Manager Watrous reported that the application for 19 Place Moulin was continued to the June 19, 2008 meeting. He stated that there currently are no items scheduled for the July 3, 2008 Board meeting and stated that that meeting may be canceled.

D. NEW BUSINESS BEFORE THE BOARD

1. 533 VIRGINIA DRIVE PROSSEGGER/VRAANES, ADDITIONS/VARIANCE

An application has been requested for the construction of additions and alterations to an existing single-family dwelling located at 533 Virginia Drive. The additions would include expanding the dining room and living room onto the existing deck and a minor expansion of the kitchen. Windows would be added and reconfigured. The existing deck along the front of the home would be eliminated and the existing portion of the deck along the south side would be expanded by 3 feet. Variances are requested for reduced front yard setback and excess lot coverage.

Nina Vraanes, applicant, presented the plans for the additions. She explained that in order to build these additions, the existing deck and trellis would be enclosed.

Chair Doyle confirmed there was no public comment on the item.

Boardmember Chong stated that he visited the site and the project would not impact any neighbors.

Boardmember Corcoran said that he visited the property, found it to be a modest proposal and he was happy that the neighbors supported the proposal.

<p>ACTION: It was M/S (Chong/Corcoran) that the project is exempt from the provisions of CEQA and approved the project with conditions and the findings for the variances. Vote: 4-0.</p>
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2. 70 PINE TERRACE GROVE/BUSH, FENCE/DRIVEWAY/APPEALS

A Staff-level application has been requested for the construction of fencing, driveway gates and reconfiguration of the existing driveway on property located at 70 Pine Terrace. As part of the subject application, the applicant requested approval to construct a 6 foot tall wood fence along the side property lines, build a new front entry and driveway gate and reconfigure the existing driveway. A common access and utility easement for both the subject property and the adjacent lot at 80 Pine Terrace includes the existing paved driveway area, a gravel parking area adjacent to the driveway and landscaped area. Staff approved the application with the condition of approval that the applicant provide for uninterrupted vehicular access to the residence at 80 Pine Terrace. On April 29, 2008, both the applicant and the neighbor at 80 Pine Terrace filed timely appeals of this decision.

Taylor Grove, applicant/appellant, described the project, stating that he has limited use of his front yard because his neighbor drives across it outside the boundaries of the common access easement. He stated that his neighbor often speeds across his property near the area where he parks, unloads his cars and maintains his front yard. He said that his plan would separate the front yards and replace asphalt with trees, landscaping and a nice fence to improve the appearance and privacy of both properties. He said that the fence would be no different than the four other front yard fences on Pine Terrace. He stated that he appealed the Staff decision because his neighbor already has access using his own driveway on his own property, with no obstacles except a small hedge. He presented photographs of the site and explained the relationship of the driveway to the property and easement lines. He said that currently headlights shine right past the hedge and into the neighbor's windows and that the new driveway location would eliminate this. He stated that the new driveway would be a better route because it would direct headlights away from windows and the proposed fence would provide his neighbor with privacy from the street and between their front yards. He said that his neighbor drives and walks right past his living room, master bedroom and master bath, and they must put up

plywood in the window every night in order to sleep. He said that his neighbor also has loud mufflers on two of his vehicles which drive right past his master bedroom early every morning. He noted that his neighbor did not object to the approved plans for the new house, and that the only fence gate proposed was approved as part of that application. He said that the plans for the house did not include the driveway reconfiguration, as he did not have a survey to identify the exact boundary of the easement in time for the hearing for his new house. He stated that the fence would not cross the property or easement lines or the new water line. He explained that he had a survey done and found information on the boundaries of the recorded easement.

Mr. Grove stated that the new driveway would provide appropriate clearance from overhead utility wires and would not cause the neighbor to zigzag to get out of the driveway or result in a loss of parking. He noted that he had previously taken his neighbor to court to stop ongoing harassment. He stated that his neighbor has the biggest lot on Pine Terrace and has no prescriptive easement across Mr. Grove's property. He summarized that the driveway would not cost his neighbor thousands of dollars and would provide better privacy, driveway circulation and headlight protection. He said that his neighbor owns 5 vehicles, 2 trailers, and 3 people occupy his house, and never parks in his two-car garage.

Jim Bush, appellant, stated that he and his wife do not want to look at or drive around the proposed fence. He said that they like the way the driveway is and has been for the last 20 years. He said that Mr. Grove cannot build anything on their shared easement and that he has seen nothing that shows the actual alignment of the easement. He claimed that they have obtained permanent prescriptive rights for the shared driveway. He said that the fence would be built right over the new water line. He said that the project would eliminate 4 or 5 parking spaces which would exacerbate the existing parking problem on Pine Terrace. He stated that Mr. Grove has no right to block the common driveway and build on the easement. Mr. Bush said that they would have never supported an approval of a new home had they known his true intention was to get approval for this new driveway and fencing. He said that they did not want to pay to pave the new driveway and that the hedge blocks views of cars in their driveway. He said that they intend to keep their current access, as it would be hard to zigzag their boat trailer out the driveway. He stated that he has never hit a car while using this driveway for 20 years and that he has legal avenues that he can take to keep the current access.

Rochelle Bush said there is no way she would be able to drive out the proposed driveway and that she did not want to look at a fence from her front yard.

The public hearing was opened.

Judy Sanford said that you cannot find a better neighbor who is willing to compromise and willing to do whatever it takes to make everybody happy than Mr. Grove and she supported his request.

Aileen Adamson supported Mr. Grove's application because it would provide much needed privacy and security. She said that she is uncomfortable with the lack of privacy and felt that Mr. Bush's behavior is sometimes threatening. She voiced concerns with speeding, stating that the neighbors' cars have almost hit her and her car. She cited occasions where the neighbor would park on Mr. Grove's property blocking access when there is parking on the street. She said that Mr. Grove's plan would beautify the front yard.

Lisa Grove, sister of applicant, stated that the project would provide much needed privacy between her brother and the neighbor. She stated that the issues with the neighbors have caused them mental anguish and that harassment that has gone on which has been detrimental to her brother's health. She said that the fence would provide peace of mind.

Boardmember Corcoran asked about a driveway gate and Planning Manager Watrous stated that the gate was

originally requested as part of this application but was not approved because it would have been within 15 feet of the common roadway.

Boardmember Corcoran confirmed with Mr. Grove that he was willing to pay for modifications required to remove the bush and repave the driveway.

Mr. Bush stated that he appreciated the offer to remove the bush and repave the driveway, but felt that it would be very negative for them to deal with the ingress and egress from their property. He said that utility lines above the new driveway would affect his ability to pull his boat in and out of his property due to its 12 foot tall tower.

Rochelle Bush stated that the fence would make her feel very uneasy as she can see people coming and going now and if a fence were installed, she would feel closed in. She said that they have many friends who visit them and there is no parking on Pine Terrace.

Mr. Bush stated that he was still unsure about the location of the access easement and said that the project would defy common sense.

Chair Doyle stated that Mr. Bush has a lot of cars on a property that was not designed for so many and asked Mr. Bush why he did not use his garage. Mr. Bush said that the garage is used for storage. He said that his children both drive and have many friends with cars who visit, and it is difficult for cars to park anywhere.

Chair Doyle said the proposal actually would benefit Mr. Bush by giving him a straight shot in instead of having to drive around a curve. Mr. Bush said that that is not the way they park their cars and that it would be very difficult to get in and out of their property.

Boardmember Corcoran discussed the Design Review Board's role, which does not involve serving as a court of law in order to resolve civil matters. He said he would much rather work out an amicable solution for both neighbors. He said that prescriptive easements are very difficult to prove in general, and he suggested both parties find a good solution. Mr. Bush said that the approved new house should provide plenty of parking and security.

Boardmember Corcoran said that the proposal was not that bad, citing Robert Frost's statement that "good fences make good neighbors." He said that the fence might help delineate boundaries for both neighbors. He asked about possibly cutting the fence back at its corner.

Both parties and the Board discussed the layout of the fence at length. Planning Manager Watrous indicated on the location of the easement on the plans, adding that the language in the title reports is not fully descriptive of where the easements are located. He stated that the easement was located as shown on Mr. Grove's plans.

The public hearing was closed.

Boardmember Corcoran said that there has been a lot of history with these two properties, noting again that the Design Review Board does not get into easements and private disputes. He said that he would like to come to some sort of agreement and he believed the applicant made a very generous offer to pay for many of the improvements involved. He was unsure how the Board could come to any agreement or compromise at this meeting, stating that the compromise needs to come from the two parties. He felt that the Staff report explained the situation well and that the only reasonable solution was to deny both appeals, rather than to try

to determine who is right and who is wrong.

Chair Doyle thought the project made sense and would create a useable space from what is a parking lot. He said that the fence will provide much-needed privacy for both lots. He said that the houses in the neighborhood were not made for 5-7 cars, as well as boats, SUVs and trailers, but this is not an issue which the Board can address. He said that from a design point of view, the project would make it easier to get in and out of the driveway. He said that the easement should be resolved before the Board can judge whether this is a good plan or not. He thought that perhaps there was another alternative design that would improve circulation and increase privacy while still serving the purpose of providing a new driveway. He did not see the reason for the extension of the fence from the corner toward Pine Terrace, as this portion would not enhance privacy and moving it would create a wider driveway.

The Board discussed possible changes to the fence design that would scale back the fence and improve the circulation for the Bush house. Planning Manager Watrous stated that the Board could change the project design by partially granting Mr. Bush's appeal. He stated that the Board could direct Staff to prepare the resolutions to partially grant Mr. Bush's appeal and deny Mr. Grove's appeal if the changes to the fence could be quantifiable.

It was the consensus of the Board to direct the applicant to prepare revised plans cutting back the northernmost portion of the fence 3 feet and pulling the corner back 6 feet, and to return to the Board with the revised plan at the next meeting.

ACTION: It was M/S (Corcoran/Chong) to continue the appeals to the June 19, 2008 meeting and request the applicant prepare plans showing a modified fence design. Vote: 3-0.

**3. 19 PLACE MOULIN VALENTINO, MINOR ALTERATIONS
CONTINUED TO 6/19/08**

4. DISCUSSION OF LATE MAIL POLICY

Planning Manager Watrous described the late mail policy adopted by the Town Council in November of last year. He said that the policy states that if mail arrives very late, it is at the discretion of the Board or Council as to whether they wish to read it, consider it and accept it.

Boardmember Corcoran questioned and confirmed that the section of the policy stating that "mail may not be read" was permissive. Planning Manager Watrous noted the policy was helpful in the Kol Shofar hearing where letters seemed to arrive earlier than at hearings before the policy was in place.

E. APPROVAL OF MINUTES #7 OF THE 5/15/08 DESIGN REVIEW BOARD MEETING

Boardmember Corcoran requested the following amendments:

- Page 4, 5th full paragraph; "Boardmember Corcoran said he was not convinced on the necessity of the separately built, single car garage, as parking could still be provided in the driveway."

Boardmember Chong requested the following amendment:

- Page 5, 3rd full paragraph; “Boardmember Chong stated that he liked the garage, adding that it was set into the hillside properly and faced with stone. He felt that a three-car garage facing the street would be more intrusive and that the landscaping screening addresses the issue of bulk.”

ACTION: It was M/S (Corcoran/Chong) to approve the minutes of the May 15, 2008 Design Review Board meeting, as amended. Vote: 3-0.

G. ADJOURNMENT

The meeting was adjourned at 9:00 p.m.