

DRAFT

KENSINGTON MUNICIPAL ADVISORY COUNCIL

MEETING MINUTES

Meeting Venue: Conference Room, Kensington Community Center

Meeting Date: November 26 2002, 7.00 pm

1. **Present:** J. Carman (Chair), R. Barraza, E. Detmer, D. Jenkins and C. Reed.
2. **Minutes** of the October 29, 2002 Meeting were approved unanimously with one change as follows: Item 7,a) should read “Following the problems encountered with the 130 York Ave project described above, KMAC clarified the method that it would use in the future to obtain additional information from the County as follows: should a KMAC member require further information they will individually contact D. Foley at the County. It was also emphasized that each KMAC member has the right to request more information or a KMAC hearing on a project, and to notify D. Foley of such requests”.
3. **Continued consideration of 69 Norwood Ave. (LP022080). Request to legalize an existing second unit.**

The Owner/Applicant S. Morganelli reported that she had met twice with her neighbor J. Taylor (71 Norwood Ave.) in an attempt to mitigate J. Taylor’s concerns about noise and loss of privacy. The following list of mitigation proposals was discussed:

- a. Plant denser border of tall shrubs and trees at property line.
- b. Commission survey/construct a sound wall at property line.
- c. Oil and insulate rental unit door for quieter closing.
- d. Divide back yard into two yards, have tenant enter/exit through rental unit back door.
- e. Remove boxwood hedge in front of 69 Norwood Ave; widen parking area.
- f. Have PG&E trim back overhanging of trees and shrubs along Norwood Ave to improve parking.
- g. Install double-paned windows in bedroom of 71 Norwood Ave.
- h. Reconstruct front deck to lower profile; add “fence” around perimeter of deck.

J. Taylor was unable to attend and was represented by her attorney, R. Rickles. Besides the mitigation proposals presented above R. Rickles presented the following additional mitigation proposals.

- i. Replace concrete deck and walkway surface with wood or other noise absorptive material.
- j. Include in lease a limit of no more than two vehicles.

- k. Limit tenant parking to North side of house where present driveway is now located.
- l. Include a lease clause stating that that it is a material breach of the lease allowing the landlord to evict for unreasonable noise, loud music and nuisance noise after 10 pm.

Additional comments were made by neighbors W. Buss (67 Norwood) and P. Taybe (121 Norwood Court) and M. McCallister, P. Rauch and F. LeFever (Kensington residents). The following points were made:

- The police had never been called by J. Taylor because of noise (P. Taybe, R. Rickles)
- The second unit was constructed with permit and approved in 1953 so that any mitigation that the applicant performs now is commendable (M. McCallister)
- Even though J. Taylor's second bedroom is currently used for storage, it should be considered as living space for the purposes of noise mitigation (P. Rauch).
- No noise nuisance existed on the north side of 69 Norwood Ave even though the applicant's son plays loud music in his room on this side of the house. The applicant and her family are very sensitive to the concerns of their neighbors (W. Buss).
- Requiring mitigation for an existing approved second unit by placing additional conditions and lease restrictions will set a precedent for Kensington (F. LeFever).

Given that this second unit was permitted and met all requirements at the time it was constructed in 1953, this land use and these variances do not constitute grants of special privilege and meet the intent and purpose of the R6 land use district. However, KMAC believes some noise mitigation is appropriate as reflected in the following motion

“KMAC recommends, with conditions, approval of a land use permit for the existing second unit at 69 Norwood and approval of the following variances for this property:

- i. A rear yard setback of 12 ft. (15 ft. required);*
- ii. Two off-street parking spaces in tandem and out of the front and side setbacks (3 required);*
- iii. A front entrance door at the front of the building (side or rear required).*

The mitigation conditions recommended are for the applicant to:

Plant denser vegetation along the property line between 71 Norwood and 69 Norwood;

- i. Oil rental unit door, install a silencer and weather stripping and replace the knocker with an interior ringing bell;*
- ii. Pay for two double-glazed vinyl windows for the bedrooms on the north side of 71 Norwood; these windows will be purchased and installed by J.*

Taylor who is to be reimbursed for the purchase price of the windows only.

Passed 5-0.

4. 420 Berkeley Park Blvd. (VR021096). Request for a small lot review and side yard variance of 2 ft. and 5 ft. aggregate (3 ft. and 6 ft aggregate required).

A.Hawn (owner/applicant) indicated that the project was to convert an enclosed rear deck and the space beneath it into an addition to the existing structure. In effect this converted a 2 bedroom, 1 bath house into a 3 bedroom, 2 bath house for a growing family. The need for the side yard variances existed because the lot was trapezoidal. KMAC noted that the addition was not a second storey so that no set back is required and that only one off-street parking place was required.

The following motion was made:

“KMAC finds that:

- i. the shape of the lot is a special circumstance that would allow it to recommend approval of a side yard variance;*
- ii. the granting of such a variance is not a special privilege and is consistent with other setbacks in this neighborhood;*
- iii. approval of said variance meets the intent and purpose of the R6 district.*

Therefore, we recommend approval of a variance for a 2 ft side yard and aggregate of 5 ft. Further under the small lot review, KMAC finds that the proposed project is compatible with other properties in the neighborhood and that the project does not create an unfavorable impact”.

Passed 5-0.

5. Citizen Comments

F. LeFever (271 Amherst) asked for a definition of the point from which a front set back is measured. KMAC member R. Barraza stated that the point was from the closest edge of the County right-of-way which typically corresponded to the edge of the sidewalk closest to the property. F. LeFever also asked what is done when surface seismic movement shifts property lines. No one was sure and F. LeFever was referred to the Community Development Department.

6. Procedural Matters

(a) **121 Norwood Ct. regarding code interpretations and related matters concerning KMAC requests for information on applications.**

Because representatives from Supervisor Gioia's office and the County Community Development Department were not present, the subject matter concerning KMAC's request for additional information on applications was deferred to its next (January) meeting.

The specific issue of 121 Norwood Ct was discussed, together with the owner P. Taybi. KMAC learned that substandard lots that meet the area and width requirements for R6 are not subject to small lot review under section 82-10.002. Because the lot was six-sided, Ms. Allen made a decision that one non-straight side not touching a front corner of the lot could be considered a side boundary of the property. As a consequence of this counter decision, no setback variances were required and the plan was approved without community review. P. Taybi indicated that he had obtained written County approval of these designations and that he would send Chair Carman that documentation. This case will be discussed with Ms. Kutsuris when she attends our meeting.

(b) **Report and discussion of meeting with Dennis Barry and Carlos Baltonado concerning improving the consistency in handling ZA approved plans from CDD to the Building Inspection Department.**

R. Barraza and C. Reed reported that the meeting with D. Barry, C. Baltonado, L. Hogan (the senior building inspector assigned to Kensington) and C. Kutsuris was very positive.

C. Kutsuris offered to speak at a KMAC meeting to explain County policies and procedures. Since this didn't occur at this meeting, the Supervisor will be asked to invite Ms. Kutsuris to our meeting of January 28, 2003. It was noted that the Community Development Department take special care with Kensington projects that includes:

- Sending KMAC all 300 ft. notices instead of giving immediate administrative approval on such cases.
- Sending construction plans to Condition Compliance for a plan check instead of granting a counter approval,
- Planners red-lining sensitive areas on construction drawings as well as pin-pointing Conditions of Approval on construction plans to assure compliance,
- Requiring surveys to verify property corners, and
- Assuring that Community Development approves Conditions of Approval compliance as construction progresses.

KMAC thanked R. Barraza and C. Reed for attending this meeting – hopefully this is the start of a dialog that will lead to a more efficient and accurate working relationship between KMAC and the County.

7. Information Reports

(a) Chair Carman circulated a letter from S. Wilt received through KIC regarding garage conversions without permit. J. Carman indicated that , following the January 11 2003 community meeting on the new ordinance, he would raise the issue of advertising such units in sales literature with the real estate agents.

(b) **9 Arlington Lane (Z1029705B)**. Chairman Carman distributed a fax sent by Mr. Broderick to Ms. Allen reflecting a question raised by our Chairman about prior work done on this property.

(c) Chair Carman indicated that V. Dorah is taking on the issues of Kensington paths.

(d) Enforcement Report

2 cases closed; 2 cases opened; 8 cases remain open.

(e) J. Carman distributed an East Bay Municipal Utilities District Water Conservation Plan.

8. Announcements

a. The Community Meeting on the New Ordinance will be at 10.30 am on Saturday January 11 2003.

b. There will be no KMAC meeting in December 2002. The next KMAC meeting will be on January 28th 2003.

c. An all-day meeting on environmental justice sponsored by the Board of Supervisory will be held December 16.

9. Adjournment

The meeting was adjourned at 10.05 pm.

Respectfully submitted,

David Jenkins
Secretary KMAC

