

DRAFT

**Kensington Municipal Advisory Council
Minutes
Meeting of July 27, 2004**

Council Members present:

Chair: Reyes Barraza

Vice Chair: James Carman

Secretary: Richard Karlsson

Council Member: Patrick Tahara

Council Member: Kay Reed

The meeting commenced at 7:00 p.m. All members were present.

1. The Council approved the minutes of June 29th by a vote of 5-0, with the following changes: Page 6, second paragraph, final sentence was corrected to read that the house at 197 Amherst was a "... 2200 sq. ft. house on a 5000 sq. ft. lot, and therefore was a smaller home than that proposed on a similar size lot." Page 5, line 4 was amended to read: "... which is now proposed to be 3000 sq. ft. ..." Ms. Celia Concus noted that the minutes failed to reflect her comments at the meeting.
2. There were no citizen comments at the beginning of the meeting; all those in attendance stated that they were present to address or observe the matters on the agenda before the Council.
3. **200 Amherst Ave. (DP043059).** Request for a small lot review for expansion of an existing residence on a substandard lot, with a possible variance for height. (Continued hearing from June 29, 2004). Ms. Alberti, with the firm of Samonsky and Pometta, made the presentation on behalf of the owners, Mr. and Mrs. Ngan. She began by presenting a handout indicating that the proposed revision reduced the expansion by 390 sq. ft., from 2995 sq. ft. to 2605 sq. ft. (a reduction of 31%). She added that there would be a total of 625 sq. ft. of decking in the proposed remodel. After presenting the plans and the reduction, she then invited questions by KMAC members.

Mr. Carman sought information concerning the existing building attached to the rear of the residence and was informed that it was an old garage, 10.5' wide by 16' long. Ms. Reed inquired about the accessory building and was advised that it was an open building that appears to have been used as a 'potting shed' or some similar use. Ms. Reed then asked if they had met with the neighbors regarding the revised plans and Ms. Alberti responded that there was not enough time to meet, but that they had provided the neighbors with the revised plans the prior Friday, July 23rd.

Ms. Alberti was then asked about the middle section of the house, shown on page 5 of the plans, and was advised that it was a laundry room, 500 sq.ft., 25' x 25', and was a little over 6' in height and therefore considered a story. To develop the basement area of the house, they were advised by the County Community Development Dept. that they would need a variance and that they did not meet the hardship criteria necessary to gain such approval for a variance. Ms. Reed then asked if there was presently an exit from the house to the west and was advised by Ms. Alberti that there was not presently. Ms. Reed then asked why 600 ft of decking was required, and Ms. Alberti responded that it broke up the house so that it would not be all walls. She further commented that they had changed the window design, on page 12 of the plans, to clerestory windows to afford greater privacy to the northern neighbors. Ms. Reed then inquired about the roof deck, on page 10 of the plans, and noted that it appeared to be fourth story, based upon page 11 of the plans (the of the proposed north elevation). Ms. Alberti commented that because the plans called for the filling in of the existing basement, that the revised plans would only have 2.5 stories and the roof deck would be within the half-story.

Vice-Chair Carman questioned why the plans had no legend and Chair Barraza noted that most useful drawings would be those with such legends. Ms. Alberti indicated that the legend was lost when the drawings were enlarged. Vice-Chair Carman then inquired as to why no consideration was given to enlarge the home within the existing envelope, which might be done, for example, within the existing attic through the use of window dormers, etc. Ms. Alberti indicated that it was far from clear that they would get approval for a variance. Mr. Carman then questioned whether the proposed master bedroom needed to be as large, and Ms. Alberti indicated that in the re-design they had already lost a bathroom. Mr. Carman then commented that if the house were expanded into the attic, they would achieve their purpose. Mr. Carman then asked if the only purpose for the dormer to the west was to provide access to the roof deck, and Ms. Alberti confirmed this and advised Chair Barraza, in response to his question, that Will Nelson of the Community Development Department had advised them that the walls of the deck were low enough so as to not be considered a third story. Vice-Chair Carman then asked why they could not put the garage or the parking under the proposed deck to the west. Ms. Alberti responded that they had met the requirement for off-street parking and the deck was only 10' wide, and it would be difficult to park a car under the garage.

Chair Barraza then commented on what he considered procedural issues. First, while he thought the revised design was a significant improvement, he was concerned that the purpose of the continuance had been to share the revised drawings with the neighbors and to meet with them regarding their concerns. He then asked if they had contacted the neighbors and was advised by Ms. Alberti that they had intended to meet with David Bergen and Anna Martinez-Rivero, but it was Friday, July 23rd, before they were able to get them the revised plans. Mr. Barraza indicated that the goal of KMAC would have been to have the applicants work with the neighbors and that he was very concerned that this did not happen in advance of the July KMAC meeting. Mr. Barraza continued that it is the preference of KMAC to see structurally downward expansion of residences, rather than outward or upward, and, that while a variance may be required in this instance, if the neighbors and

KMAC do not oppose and instead support such a variance, the likelihood would be greater to achieve it. Mr. Karlsson then asked if the applicants agreed with the accuracy of the neighbors' presentation of floor area and lot sizes of nearby houses, as shown on page 6 of the neighbors' written opposition to the original proposal, which was presented to KMAC on June 29th. Ms. Alberti indicated that they did not have the information to rebut that information. Mr. Carman advised Ms. Alberti that the information regarding sizes of nearby residences and lot sizes were available from the County Assessor's Office.

Member Tahara commented that he thought the revisions of the plans were much better; specifically, he liked the shrubbery and planting screens on the proposed south elevation (p. 14) and the clerestory windows on the proposed north elevation (p. 12), as well as the fact that the plans had been reduced in overall square footage. He asked whether they had considered a trellis to the north elevation and whether they had considered breaking up the design of the wall to the north elevation. Finally, he inquired as to whether they needed the roof deck as part of the plan, as it was his perception that there was opposition to same, due to the resulting lack of privacy for the neighbors. He further asked, in light of the proposed decks on the first and second stories, whether the roof deck was needed. Ms. Alberti in response questioned her clients, who indicated that they would be willing to compromise on the roof deck if it otherwise facilitated approval of the remaining portions of the plans presented. Ms. Reed, in response, appreciated the Ngan's willingness to compromise, and quoted without attribution: "You are a builder once, you are a neighbor several times over." She further stated that she was disappointed that they were not asking for a variance to stay within the existing envelope of the building. Ms. Alberti again stated that they were advised that they did not meet the requirements for a variance.

Chair Barraza then asked the audience for comments. Ms. Anna Martinez-Rivero, who resides at 206 Amherst, suggested that the KMAC Board continue the hearing to allow the neighbors a chance to review the revised plans. She said that the neighbors did not receive the plans in enough time to provide a meaningful response and that they would have wanted to meet with the applicants to discuss the revisions prior to this meeting. She did believe, however, that the revisions were good adjustments from the original proposal. She also stated that, while she liked the idea of a planting screen, she was uncertain that it would work with only 10' between the houses. Finally, she would have no objection if the applicants wanted to build within the existing envelope of the house and she would support a variance for that purpose. Additionally, Mr. Martinez-Rivero indicated that he was uncertain of how the new revised plans would impact their home as he was uncertain of the new measurements. He requested that story-poles be put up so he could make a determination of the impact on his house. He also had concerns about the roof deck, and its impact upon their privacy.

David Bergen, 670 Oberlin, a resident since 1957, stated that there were 15 people in attendance, in addition to him, who were concerned about the revised plans. He pointed out that, in his view, the neighbors had not had sufficient time to review the revised plans. He therefore requested a continuance since he believed

the revised addition still obscured views, that the bulk of the house remained a problem, and questioned whether the size of the improvements - such as the 360 sq. ft. bathroom - were really needed. He further stated that he believed the dormer leading to the roof deck was a third story, and that he preferred that they either go down or go out only on the existing first floor, and that a 15' extension of that floor would be acceptable to him.

Laura Dubinette, a resident of 198 Amherst, agreed that a continuance was necessary and that she felt strongest about the proposed roof deck. There then followed a discussion among the KMAC members about the usefulness of decks given Kensington's weather. Ms. Dubinette said that her home made extensive use of their basement, all bedrooms were on one floor, and the design worked fine for her and her family.

Ann Fleming, 201 Amherst, then questioned the slope of the lot and whether that would not assist in building lower improvement. John Fleming then spoke and was concerned that if the planting screen utilized trees, this might further negatively impact views.

Finally, Ms. Celia Concus of Yale Ave indicated that, while her own view was not directly impacted by this proposal, she was interested in generally preserving views in the area. She would be very pleased if the Ngan's could develop the property within the existing space and believed the revised proposal was excessive in size and bulk and that it "loomed over" other properties and it "robbed" adjacent properties of their proper spatial and proportionate placement where neighbors had already built on existing lots. She further believed that planting screens were of limited use and spoke of her personal experience where trees planted did not work. She was further concerned that the proposed plan and extension left no room for a garden and noted she believed it was important for residences to have gardens. In Ms. Concus' opinion, the 10' remaining behind the house after the improvement was not suitable for a garden and it was her desire to have open space in Kensington for gardens. She believed, in closing, that the Ngan's should spend more time with their neighbors.

Ms. Alberti then raised the question as to what might satisfy the neighbors and KMAC. She indicated that they had already reduced the size of the proposed addition significantly and inquired if approval would require removal of the master bath and bedroom.

Ruth O'Connor, 205 Arlington, requested that the hearing be continued, to which Member Tahara asked how much additional time the neighbors believed was necessary. Mr. Bergen responded that the August meeting would not be a sufficient amount of time. Ms. Ann Fleming indicated that she wanted to work together with the Ngan's and that she supported a variance for the basement.

Vice-Chair Carman said that the question was whether the applicant wanted a continuance, that KMAC could not mandate a continuance. Member Tahara requested that Mr. Nelson of Community Development be contacted regarding his

views regarding a variance. Chair Barraza indicated that he would contact Mr. Nelson regarding this issue and would report back at the next KMAC meeting. Mr. Carman then commented that in his view the design submitted was a poor one in light of the needs of the family and the needs of the neighbors; he felt it destroyed the compatibility of the neighborhood and the roof deck was a waste of money. He suggested that the current plan was defective and that they should work with the neighbors. He noted that, in his experience with KMAC, if the applicants chose to move forward with the neighbors in still opposition, the entire process of going to the Zoning Administrator, the Planning Commission and the Board of Supervisors would take 10 to 12 months, all at great expense. He pointed out that Mr. Nelson was not a final decision-maker in regard to a variance and that, in his opinion, the zoning administrator would approve a variance if the neighbors and KMAC approved the plan. It was also his position that he would support the expansion of the first floor, if such an expansion had support of the neighbors. He finally suggested that the applicants not be in a hurry to get back to KMAC without first meeting with the neighbors.

The applicants were then asked if they would prefer that KMAC proceed with making a recommendation based upon the information before it, or if the applicants would prefer a continuance. After consultation with their architects, Mr. and Mrs. Ngan requested a continuance, which was approved by a vote of 5-0.

4. Information/Enforcement Reports

- a. 89 Kensington Rd. This property was within the moratorium and therefore no action by KMAC was required. Chair Barraza had contacted the applicant and suggested she use the time available to get the drawings for her project in more legible and detailed format.
- b. 163 Arlington. Dennis Broderick reports that a building permit was requested to rebuild the garage door.
- c. 215 Arlington. Police/Fire station improvement was approved on the consent calendar.
- d. 120 Kenyon. Retaining wall was considered a pre-existing, non-conforming use and therefore a six foot fence could be built upon the retaining wall without a variance according to the Building Inspection Dept.
- e. 136 Highland. A radio tower has been built without a permit. Owner has applied for a building permit. The issue is now with Community Development. Should CDD choose to apply some sort of height limitation, there is concern that this could be overridden by the FCC.
- f. Arlington Community Church. Public Works Dept is concerned that the cross-walk from the parking lot to the front door of the church could be a hazard to pedestrians. This has raised additional concerns over alternate, safer access from the parking lot to the church. Chair Barraza is attempting to have the church and Public Works discuss and overall plan for a safer cross-walk across Arlington Ave.
- g. 163 Coventry Rd. A concert is scheduled for Friday evening, 9:00pm to 11:00pm. ABC license to sell alcohol was obtained.

- h. 125 York. The issue was resolved after many months of appeals; Supervisor Gioia spent a considerable amount of time with the neighbors and the applicants to come up with an acceptable solution, Plan G, which both sides can accept.
- i. Edwin Crt. Property red-tagged after building three-story house without a permit. The owner apparently has not decided on how to proceed.
- j. Highgate Ct. Mr. Carman reported the Council had received a copy of a letter from Pamela Drake to the CDD indicating frustration over a project of hers having been stopped by the moratorium.

5. The meeting was adjourned at 9:50 p.m.

Richard Karlsson
Secretary