

The Special Meeting of the San Anselmo Planning Commission was called to ²¹³ by Chairman David Ainsworth in the Council Chambers at 8:50 p.m. on June 28, 1976. Representing Town Staff: T. J. Robbins, Associate Engineer/Planner; Patricia R. Perry, Planning Technician

1. ROLL CALL

Commissioners Present: Ainsworth, Bolles, Eisgrau, Goltz
Commissioners Absent: Fairchild, Greenfield, Ragan

2. MATTERS FOR CONSIDERATION

A. LORENZO'S ITALIAN CUISINE: U-444 - Request for revision of original use permit conditions.

Applicant was present and had received Staff Report. (This item was held over from the June 21st meeting).

Commissioner Goltz expressed his concern about the late hours and the close proximity to a residential neighborhood. He would accept amendment with the provision that there be a review in six months or upon complaint.

M/S Bolles, Eisgrau to approve a revision to U-444 for the on-sale business of selling beer and wine for Mark Civarello, 729 Sir Francis Drake Blvd., to change a previously approved condition, #3, from hours of operation of 5:00 p.m. to 11:00 p.m. to 5:00 p.m. to 1:00 a.m. with the additional condition that the use permit be reviewed in six months or upon receipt of recognized complaint. Passed unanimously.

Variance 679, originally not scheduled for this meeting, was brought before the Commission for further consideration. This item had been considered at the June 21st meeting, but the Commission had expressed their wish that Staff issue the applicant a building permit rather than consider the merits of a variance. The Commission, being advised verbally that parking was now considered a use, felt this particular application should be processed under the current Code following the then current policy when this applicant first applied for a building permit.

Before considering further the variance for Richard Anstey, 66 Durham Rd., Chairman Ainsworth reviewed with the Commission the letter from the Town Attorney dated June 25, 1976. It was the Town Attorney's opinion that an expansion or alteration of a building on property with less than the required off-street parking was an expansion/alteration of the non-conforming use of the property which would require a variance.

The case which the Town Attorney cited in his letter as aiding in his opinion was the owner of two adjacent parcels, one zoned for commercial and one zoned for residential. The residential property was used as an accessory parking area for the commercial parcel which created an illegal use. This meant the parking was considered a "use" of land.

Commissioner Goltz questioned whether exceeding the required number of parking spaces would constitute a non-conforming use. Commissioner Goltz did not agree with the need for a variance here, and he felt Staff should be able to issue a building permit. He didn't think the Commission should vote on the variance, reasons for which are included in the motion.

Chairman Ainsworth stated he did not want to vote on the variance either. He did not feel this was a use that required a variance. The uses discussed in the Code, such as single family dwellings, are subject to the height, bulk, and space requirements. If a house were expanded and the lot was 7000 S.F. instead of 7500 S.F. that would not require a variance. He felt it was odd that parking was singled out. He did not feel that was more essential than the others.

Commissioner Goltz felt there was a big difference between interpreting and changing laws. He felt this new opinion was changing something which had been standard practice. To change the law would require public hearings, etc.

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M/S Ainsworth, Goltz that Staff be directed to communicate with the Mayor, tomorrow or soon thereafter as possible, and convey the Planning Commission's recommendation that Staff be directed to issue a building permit to Richard Anstey, 66 Durham Rd., and that the permit be issued as soon as possible but before the Council meeting of July 13th for the following reasons:

1. To act on this variance application would mean that the Planning Commission would have to make findings that they normally could not make on this kind of application. If they did make those findings, Mr. Anstey could not remodel.
2. We are taking a law that has been implied for the last 20-30 years which affect many people and changing it with a new interpretation

Motion carried: Ayes: Ainsworth, Bolles, Eisgrau, Goltz,
Nays: None

Staff was directed to include the minutes of this meeting with the aforementioned communication.

It was the feeling of the Commission that if they had to vote on the merits of this variance application they would vote "no". Commissioner Goltz said that he would "abstain".

- B. Proposed Second Unit Ordinance: Environmental Review of the ordinance; review/recommendations on the Resolution establishing a rental rate scale and a low income definition scale; review/recommendations on the Resolution establishing the maximum number of second units to be permitted on single family lots in each neighborhood.

There were no protests on the Negative Declaration which was issued May 28, 1976 on the ordinance establishing and regulating second units.

Resolution establishing a rental rate scale and low income definition scale:

Commissioner Bolles felt it would be very difficult to establish a person's "gross income".

Ms. Perry stated she felt the Town should contract out, with possibly the Housing Authority, to review tenant eligibility.

Commission felt the Resolution was a good response to the Ordinance.

M/S Goltz, Ainsworth that the Planning Commission recommend to the Town Council that they adopt this resolution setting low income scale for Ordinance 706, and give it the next resolution number in line. Passed unanimously, Commissioner Bolles abstaining.

Resolution establishing the maximum number of second units to be permitted on single family lots in each neighborhood:

No action taken on this Resolution. Held over until July 12, 1976.

- C. Complaint about day care center use permit from neighbors. Commissioner Goltz confirmed with the Commission that the review date was August 2nd.

3. ADJOURN

Meeting adjourned 11:30 p.m.


Catherine Carpenter, Secretary