

The regular meeting of the San Anselmo Planning Commission was called to order by Chairman George Buckle at 8:00 p.m. on May 15, 1978, in Room 6 of the Isabel Cook Community Center. Representing Town Staff: Hadden Roth, Town Attorney, Charles R. Leitzell, Director of Public Works/Planning, T. J. Robbins, Associate Engineer/Planner, Lynn McGovern, Planning Aide.

1. ROLL CALL

Commissioners Present: Buckle, Goltz, Harle, Olive, Ollinger
Commissioners Absent: Kapranos, Ragan

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3. OLD BUSINESS - PUBLIC HEARING

A. Criteria For Residential Parking Required When Additions Are Made to Dwellings

Mr. Leitzell said that staff drafted a proposed ordinance for the meeting of April 3, 1978, to clarify when a parking variance would be required. He said the present interpretation of the Municipal Code is that two legal, 10' x 20' parking spaces are required per dwelling and if additions are made to a dwelling which has non-conforming parking, a variance must be granted or the parking brought up to Code.

Mr. Roth reaffirmed his opinion that parking is a use.

Commissioner Goltz suggested that the ordinance be changed so that R-1 zones would not require a parking variance when additions are made to a dwelling that has non-conforming parking.

M/S Goltz, Olive, to put over this public hearing one month, to June 19, 1978, and ask the Town Attorney to prepare language for our ordinance that would not specifically require parking to be brought up to Code on additions or alterations to R-1 zoned dwellings.

Motion Denied: AYES: Goltz, Ollinger
NOES: Buckle, Harle, Olive

Mr. Roth said it would be difficult to define parking as a use in R-2 and R-3 zones, and not a use in R-1 zones.

Mr. Leitzell said the possibility of parking problems developing in R-2 zones and R-1 zones is about the same.

Commissioner Ollinger said when bedrooms are added in R-2 and R-3 zones, it could mean another family and, therefore, possibly more parking would be required; whereas, this would not be as likely in a R-1 zone.

Some of the Commissioners feel it is necessary for parking to be brought up to Code when significant additions are made to dwellings.

Commissioners Goltz and Ollinger, however, feel the parking variance application is discriminatory and makes a mockery of the variance procedure by charging people \$100.00 and, often times, granting the parking variance automatically.

Commissioner Buckle suggested that perhaps changing the ordinance to allow overnight parking on Town streets, rather than changing the variance procedure for parking, would be more equitable.

Commissioner Goltz said the parking variance requirement in lieu of legal, conforming parking, is retroactive, and such laws in a zoning ordinance foster harassment. The people then try to get around meeting the law because it is unfair (Mr. Roth states that this is not a retroactive ordinance since it is applied only when new work is contemplated).

Mr. Roth said the proposed ordinance change prepared by staff is a workable proposal for him to develop.

M/S Olive, Harle, to recommend to the Town Council the following change to the Municipal Code:

Section 10-3.1907 is amended to read as follows:

10-3.1907. Additions to dwelling units and conversion of

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garages, carports, and outside parking spaces.

- (a) Any dwelling unit or units having less than the required number of legal, off-street parking spaces may be enlarged or extended provided one of the following conditions is met:
- (1) The legally required number of lawful off-street parking spaces is provided prior to the issuance of the building permit for an enlargement or extension.
 - (2) The enlargement or extension does not include a room suitable for use as a bedroom nor permit the conversion of an existing room to use as a bedroom.
- (b) No building permit shall be issued for any structural alteration or modification which eliminates or converts any garage, carport, or outside space being used as a parking area, unless thereafter there exists on the same lot or parcel the same number (but not less than the legally required number) of lawful, usable parking spaces.

Motion carried: AYES: Buckle, Harle, Olive, Ollinger
NOES: Goltz

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5. NEW BUSINESS - USE PERMIT/VARIANCES

- A. U-510 - Shibui Gardens, 19 Tamalpais Avenue, A/P 7-212-20, application to amend a use permit to add two cold tubs, one hot tub, garden area, and extension of hours to 12:00 midnight.

Doug Rosenberg and Tom Bertotti, owners, present.

Mr. Rosenberg said the customers will have to reserve a cold tub when reserving a hot tub or sauna. He said Shibui Gardens has been staying open until 12:00 midnight (without the Planning Department's approval) since January, 1978, and during this period there have been no complaints from neighbors or the Police Department.

Mr. Bertotti suggested that the Commission permit the operation to remain open until 12:00 midnight until such time as there may be complaints.

Mr. Rosenberg said there are plans to move a fence 4', but no parking will be removed; in fact, there are three more spaces than required by Code for parking.

Linda Hoch, 250 Sequoia Drive, and Joe Marino, 550 Sequoia Drive, said they were in favor of the extension of hours.

The Commissioners discussed the possibility of waiving the fee for Design Review since the applicant will not be changing his exterior design. Mr. Leitzell said the fee cannot be waived, but suggested that the applicant may not have to go before Design Review. He said he would check with the Town Attorney.

M/S Olive, Goltz, to approve U-510, a use permit to allow the expansion of the hot tub spa with the addition of one hot tub, two cold tubs, two dressing rooms and an equipment and storage area, for Shibui Gardens, 19 Tamalpais Avenue, A/P 7-212-20, on the basis that there will be no detriment to the neighborhood because the use has existed without any complaints; and the granting of the use permit is necessary for the preservation and enjoyment of substantial property rights, with the following stipulations:

1. That the hours of operation be 10:00 a.m. to 12:00 p.m.;
2. each tub is to be screened and private in its operation;
3. users shall be a minimum age of 18 years, or be accompanied by a parent or guardian;

4. that the use be reviewed upon receipt of recognized complaints.

Motion passed unanimously.

Applicant was advised of the ten day appeal period.

M/S Goltz, Harle, to recommend to the Town Council that if the construction associated with the use permit application, U-510, for Shibui Gardens requires Design Review based on the opinion of the Town Attorney, then the Council waive the fee for this application on the basis that the change is very minor and will not architecturally change the appearance of the building and, therefore, will not have any effect on the public and the slight change they are making is consistent with the present architectural design.

Motion passed unanimously.

(Staff note: This project determined to be exempt from Design Review by Planning Director on basis of extending only existing appearance).

- B. V-779 - Miscellaneous, 562 San Anselmo Avenue, A/P 6-102-16, application for a parking variance.

Joe Marino, applicant, present.

Mr. Marino said he is presently renting storage space in San Rafael for his merchandise. This necessitates deliveries to his store in San Anselmo throughout the week by a large truck which must park on San Anselmo Avenue. He proposes to extend the building for storage space and office area; the merchandising area will be increased slightly, but will only serve to give the place more breathing room. Mr. Marino also proposes a brick patio and garden area in the rear of the property to complement Creekside Park, which he abuts.

Commissioner Goltz questioned whether this application must go before the Town Council. He thinks there is a resolution that requires any proposed additions to buildings on the creek must get approval from the Council.

M/S Olive, Harle, to approve V-779, parking variance to permit the addition of storage space and office area without providing any parking for 562 San Anselmo Avenue, A/P 6-102-16, on the basis that it will not be a detriment to the neighborhood, but instead it will be beneficial by eliminating some existing traffic congestion caused by necessary double parking for deliveries; and enhancing the rearyard area, which faces Creekside Park; and the granting of the variance is necessary for the enjoyment and preservation of substantial property rights; and that there is substantial hardship mainly that there is no space for parking on the site.

Motion passed unanimously.

Applicant was advised of the ten day appeal period.

- C. V-780 - Roger S. Hartley, 61 Forest Avenue, A/P 7-021-31, application for a 20' frontyard variance to construct a parking area within 0' of the frontyard setback.

Roger Hartley, applicant, present.

Mr. Hartley said his alternatives for placing the parking area are very limited because of the steep upslope of the lot.

Commissioner Goltz felt there would be a visual detriment by cutting into the hill, and driving cars up the driveway and turning would be difficult.

Commissioner Buckle said the drawing does not accurately show the slopes of the lot. There is also a possibility of erosion and traffic problems.

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Ms. McGovern said a 20' to 30' retaining wall would be necessary if the parking area were cut back 20' to be within the legal setbacks.

Alain Sers, 65 Forest Avenue, is concerned about the erosion that could result by cutting into the hill because there is water in the gully.

The applicant said he did not wish to redesign his drawings and, therefore, asked that the application not be continued.

M/S Goltz, Harle, to deny V-780, for a 20' frontyard variance with a 0' frontyard setback to allow the construction of a driveway and parking area for 61 Forest Avenue, A/P 7-021-31, on the basis that all three of the requirements for a variance must be met and that one requirement being that it must not be detrimental to those living and working in the neighborhood is not met in the opinion of the Planning Commission because of the safety hazards and the possible erosion problems that may occur from excessive grading and construction.

Motion passed unanimously.

Applicant was advised of the ten day appeal period.

- D. V-781 - Arthur H. Hedvall, ^{changed to #14} 21 Madera Avenue, A/P 6-116-11, application for a 10' frontyard variance to permit a 10' frontyard setback to allow the construction of a new house and carport.

Arthur Hedvall, applicant, and Randy Walker, designer representing applicant, present.

Mr. Walker said the first floor is set at 21' above the paving. Two stories are proposed and there may be a bedroom downstairs from this.

There was some concern among the Commissioners about whether this was proposed to be three stories, which is not legal in a R-1 zone without a variance from the two story maximum requirement.

Charles Gnecco, 9 Madera Avenue, is concerned about the amount of greenery which would be in front of this house and protruding into the public right-of-way, where people could park. The on-street parking is already difficult because of erosion on the sides of the road.

Russell Griffith, 23 Madera Avenue, is concerned that his view will be impaired, and perhaps if the structure is placed within the 20' setback requirement, the height will not be as detrimental. He does feel that a two story house is out of character with the rest of the neighborhood, to which many neighbors agreed. He expressed some concern about whether this lot was legally subdivided and, therefore, if it is a legal building site.

Ms. McGovern said that any property subdivided prior to the adoption of Ordinance No. 190, which has an area less than 5,000 square feet or an average width less than 50 feet, and has ever been in common ownership with adjoining land, must be in contiguous ownership with an adjoining lot for the combining provisions to apply, otherwise the lot is a legal building site.

Robert Trost, 10 Madera Avenue, said he purchased the lot and house on it next door to 21 Madera Avenue two years ago and both lots are legal, buildable lots.

Evelyn Warnhart, 41 Crooked Avenue, said the proposed house will block her entire view.

Commissioner Goltz said that although the proposed height of the structure is less than the maximum 35' height limit in R-1 zones, the portion of the proposed structure which has the maximum height is to be within 10' of the 20' setback requirement. Therefore, since the neighbors are concerned about the height and feel it would be a detriment, it is difficult to approve this variance application.

Mr. Hedvall said the drawings submitted to the Planning Commission do not necessarily reflect the design of the house he intends to build. He just wanted to get some idea of what he could do on the lot.

The Commissioners suggested that the application and designer reconsider the design, i.e., perhaps lower the height.

M/S Goltz, Harle, to continue V-781, for Arthur H. Hedvall, 21 Madera Avenue, A/P 6-116-11, application for a 10' frontyard variance to permit a 10' frontyard setback to allow the construction of a new house and carport, so that he may reconsider his design and that staff will check in order to see if a variance is required for a third story, and for determination if this is a legal lot under Section 10-3.1908 of the Code (Staff note: lot had already been determined to be a legal building site).

Motion passed unanimously.

6. MATTER FOR CONSIDERATION

A. Downtown Rezoning

There was no discussion; to be continued to meeting of June 5, 1978.

7. ADJOURNMENT

The regular meeting of the San Anselmo Planning Commission was adjourned at 11:31 p.m. to the next regular meeting of June 5, 1978.

Lisa Burglin

LISA BURGLIN
PLANNING COMMISSION SECRETARY

Addition to be inserted in Item 2 and Item 4:

2. APPROVAL OF MINUTES - MAY 1, 1978

Approval of minutes deferred to meeting of June 5, 1978.

4. OLD BUSINESS - USE PERMIT

A. EU-22 - Betty Jane (Mondala) Logwood, 25 Bella Vista Avenue, A/P 6-082-35, application to allow an existing second unit to remain. CONTINUED TO 06/05/78.

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