

The regular meeting of the San Anselmo Planning Commission was called to order by Vice-Chairperson Mary Olive at 8:00 p.m. on April 17, 1978, in Room 6 of the Isabel Cook Community Center. Representing Town Staff: Lynn McGovern, Planning Aide; T. J. Robbins, Associate Engineer/Planner

1. ROLL CALL

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

2. APPROVAL OF MINUTES

Page 6, Item 6-A, first paragraph, first sentence, change to read: ". . . said he is concerned about what happens on the lots on Pine Street which are currently zoned for commercial use, but used as residential."

M/S Ragan, Harle, to approve the minutes of April 3, 1978, as amended.

Motion passed unanimously.

5. NEW BUSINESS - EXCEPTION

G. Exception to Title 9, Chapter 12, of the San Anselmo Municipal Code for Xanadu Building, 554-556-558 San Anselmo Avenue, for undergrounding electrical and communication wiring.

Mr. Robbins said the ordinance requires undergrounding of electric and communication service laterals in commercial zones if the main service panel is being relocated. The Xanadu Building is currently being remodeled and requires a relocation and upgrading of the main electrical service.

Mr. Robbins pointed out that the purpose of this ordinance is removal of power poles by placing all services underground. With this case, there are many power poles on San Anselmo Avenue presently and the undergrounding of one service would not change the situation. Also, it is planned that San Anselmo Avenue will all be undergrounded eventually and any undergrounding done now would only be torn up in the future.

M/S Ragan, Ollinger, to grant an exception to the requirements of Title 9, Chapter 12, of the San Anselmo Municipal Code requiring undergrounding of electric and communication service laterals to the Xanadu Building, 554-556-558 San Anselmo Avenue. The basis for the exception are that results inconsistent with the purposes and intent of the Chapter would result in that overhead electrical service from the same pole to another building would remain, and that the investment in the underground trench and conduit would be either entirely or partially lost when a Rule 20 underground district is formed on San Anselmo Avenue.

Motion passed unanimously.

3. OLD BUSINESS

A. EU-17 - M. Massey and E. Saunt, 34 Elm Avenue, A/P 7-053-02, application to allow an existing second unit to remain.

M. Massey, applicant, present.

Mr. Robbins said the applicant still does not have sufficient parking available to him.

Commissioner Ollinger asked staff if it would be possible for the applicant to be limited to only rent to tenants without cars. Mr. Robbins said this could be a condition of the use permit; however, this condition would be difficult to control.

Commissioner Ollinger asked the applicant if he had considered using the Yolansdale site for additional parking. Mr. Massey said the School District had been willing to allow parking there, but the community does not want it.

Mr. Massey, referring to Mr. Robbins' suggested alternative in October, 1977, to cut back the embankment and build a ten foot retaining wall in order to provide off-street parking, said this would cost \$10,000 to \$20,000.

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Mr. Robbins said there is still a possibility that Yolansdale could be used at some future time for parking and, therefore, it would be in order to delay the approval or denial of this application three to four months longer.

Attilio Segale, 20 Holstein Road, expressed concern about the number of cars which would belong to the tenant of the second unit. Mr. Robbins pointed out that under the use permit conditions of the second unit ordinance, parking is to be considered, but a specific number of spaces for the second unit is not required.

M/S Ragan, Harle, to defer the application for a use permit to allow an existing second unit to remain for M. Massey and E. Saunt, 34 Elm Avenue, A/P 7-053-02, for a final decision to the meeting of September 18, 1978.

Motion passed unanimously.

- B. 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 05/01/78.
- C. SS-209 - Mike Gompertz and John Moller, 25 Rancho Drive, A/P 5-062-93, application for a four-lot parcel split.

Mike Gompertz, applicant, present.

Mr. Robbins showed the Commission a revised drawing of the new drainage line to be constructed on this property, which is referred to as Alternate "D" (staff note: see subdivision file in Planning Department for details of Alternate "D").

Commissioner Ragan expressed concern about the terminology used on the drawing for accessory buildings, which refers to them as "cottages." He felt it should be clear that these buildings will not be used as living quarters.

Mr. Robbins said the applicant proposes to make a dedication of a 10' easement to the Town. The drainage line would run through this easement, and, therefore, it would be the Town's responsibility, rather than the property owners'. The Town has the option on a subdivision to accept the dedication now or later. Once the Offer of Dedication is made, the property owner cannot withdraw his offer. The Offer of Dedication would not be accepted until improvements are installed.

Mr. Robbins said the proposed turnaround, hammer head type, is satisfactory.

M/S Ollinger, Ragan, to approve SS-209, a four-lot parcel split of A/P 5-062-93, 25 Rancho Drive, on the basis that this split is in conformance with the Town's General Plan, and complies with parcel split regulations with the following acceptable exceptions:

1. An exception of one water meter, as there is a water moratorium in effect, and a building permit shall not be issued until a water meter is available for the lot involved.
2. A 15' frontyard setback for the existing house on Parcel 1 to allow a 5' frontyard variance, as this setback is from an existing right-of-way line and it is not practical to move the structure due to the lot configuration.
3. An exception to the requirement of 16,000 square feet for Parcel 4 (14,400 square feet being proposed), which is justified on the basis that the required square footage could be provided by adjusting proposed lot lines, but the adjustment would result in poor lot design.
4. That the proposed drainage, referred to as Alternate "D", be accepted as shown on the drawing titled, Proposed Division of Lot 10 - Rancho Court, Unit 2, by Hool & Lockett, dated December, 1977, and revised April, 1978, and as marked up April 17, 1978.

Further move to reject the Offer of Dedication of the 10' wide utility easement at this time, and accept it when needed for development of land above this proposed Parcel Split.

Motion passed unanimously.

Applicant was advised of the ten day appeal period.

4. NEW BUSINESS - PUBLIC HEARING

- A. Proposed Amendment to Municipal Code, Section 10-3.902(g)(4), to Add The On-Sale Business of Selling Alcoholic Beverages in C-1 Zones.

Mr. Robbins said the off-sale of alcoholic beverages is already permitted in C-1 zones with a use permit, and the on-sale of alcoholic beverages is permitted in C-2 and C-3 zones with a use permit.

Mr. Robbins pointed out that the proposed use at a specific C-1 location would only be allowed with an approved use permit which could be closely controlled. There are only four small C-1 zoned areas in San Anselmo; these were pointed out on the zoning map.

The Pettit's, residents of the neighborhood, voiced objection to the proposed amendment because they felt a residential neighborhood should not have alcoholic beverages consumed on commercial premises. Also, they had moved from San Francisco because every residential neighborhood has a corner bar and that should not happen here.

Sharon Dinkus, initiator of the proposed amendment, said her place of business, Two Beans and a Pod at 1509 San Anselmo Avenue, would be serving wine only and the Planning Commission would still retain control by the use permit application.

The Commissioners reminded the audience that this hearing was for a zoning change, and not a specific application. Mr. Robbins also pointed out that use permits are personal to the applicant and are not transferable.

Commissioner Olive expressed concern whether this proposed amendment would be consistent with the General Plan. The other Commissioners seemed to agree that it would be consistent. Commissioner Ragan said there are many stores in these C-1 neighborhoods already, and the serving of alcohol would be controlled by the use permit.

M/S Ragan, Kapranos, to accept the Environmental Negative Declaration for the Municipal Code amendment described below:

Amend Section 10-3.902(g)(4) to read: "The off-sale and on-sale business of selling, or offering for sale, alcoholic drinks or beverages;"

Motion carried: AYES: Harle, Kapranos, Olive, Ragan
NOES: Ollinger

M/S Ragan, Ollinger, to recommend to the Town Council the following Municipal Code amendment:

Amend Section 10-3.902(g)(4) to read: "The off-sale and on-sale business of selling, or offering for sale, alcoholic drinks or beverages;"

Motion carried: AYES: Harle, Kapranos, Ragan
NOES: Olive, Ollinger

5. NEW BUSINESS - USE PERMITS AND VARIANCES

- A. U-507 - Robert Denizac, 69 Center Boulevard, A/P 6-102-21, application for a use permit to allow the on-site serving of beer and wine in a C-2 zone.

Robert Denizac, applicant, present.

Ms. McGovern said the previous owners of this property had a use permit for the sale of beer and wine and there were no problems. The Police Department also had no complaints. It is necessary for Mr. Denizac to apply for a use permit because the permits are not transferable and are personal to the applicant.

M/S Ragan, Harle, to approve U-507, use permit for the on-site sale of beer and wine for Robert Denizac, 69 Center Boulevard, A/P 6-102-21, on the basis that it will not be detrimental to the neighborhood; the use has existed with no problems; and the granting of the use permit affords the applicant substantial property rights because the on-site sale of beer and wine is essential to the applicant's restaurant business.

The rights granted under the permit are personal to the applicant and are not transferable or assignable.

Motion passed unanimously.

The applicant was advised of the ten day appeal period.

- B. U-508/V-776 - E.H. Lindelli, 159 Tunstead Avenue, A/P 7-251-12, applications for a use permit to allow a home occupation of a small nursery specializing in the sale of fuschias and other varieties, and a parking variance to make existing tandem parking conforming.

E. H. Lindelli, applicant, present.

Ms. McGovern said it would not make any difference which days of the week the applicant sold his plants because the traffic would be the same. She told the Commission that the Code limits the size of the operation to 50% of the accessory buildings, etc. She pointed out that although the property is zoned commercial, the use is residential and the applicant wishes to have only a home occupation.

Ms. McGovern said that although his tandem parking has existed, it is necessary for the applicant to come up to Code by having two unobstructed 10' x 20' parking spaces or obtain a parking variance since he is applying for a new use on his property.

Mr. Lindelli said he plans to retire and, therefore, would want to have the option of selling his plants any day of the week. He said he may put plants on display under his residence in the future.

Ms. McGovern pointed out that nurseries are only allowed in C-3 zones; Mr. Lindelli's home occupation will be a floral operation.

Commissioner Harle commented that this occupation is a small and specialized use and, therefore, setting time limits on his hours would be an unnecessary restriction for the applicant.

M/S Ragan, Ollinger, to approve U-508 for E. H. Lindelli, 159 Tunstead Avenue, A/P 7-251-12, application for a use permit to allow a home occupation consisting of a small floral operation specializing in the sale of fuschias and several other varieties with the following stipulations:

1. The use permit should be reviewed within six months for traffic, parking and general use considerations.
2. The rights granted under the permit are personal to the applicant and are not transferable or assignable to any other person or legal entity, whether any person or legal entity does or does not own a contractual or property interest in the particular property.

This use permit is granted on the basis that it will not be detrimental to the neighborhood because of its location; the size of the business is limited; and it will preserve property rights by the addition of a home occupation.

Motion passed unanimously.

Applicant was advised of the ten day appeal period.

M/S Ragan, Harle, to approve V-776, for 159 Tunstead Avenue, A/P 7-251-12, to allow tandem parking in the driveway since it is impossible to provide two legal parking spaces on the property given the existing parking situation; the parking will not be detrimental to the neighborhood as it will not obstruct the views of the neighbors; and will give the applicant substantial enjoyment of his property rights.

Motion passed unanimously.

Applicant was advised of the ten day appeal period.

- C. V-772 - Philip E. Clar, 9 Vine Avenue, A/P 7-273-17, application for frontyard, sideyard and height variances to construct a 7' high retaining wall and a 3' high redwood fence above the wall.

Philip Clar, applicant, present.

Mr. Clar, referring to staff's recommendation that the variances not be granted in their memo to the Commission, said that two years ago the property owner of 7 Vine Avenue built a swimming pool without surveying his property line. Consequently, 179 square feet of Mr. Clar's property was taken and used by a neighbor in error. He also pointed out to the Commission that most of the homes in the neighborhood have 20' backyards; 9 Vine Avenue has only a 5' backyard. There are other retaining walls in the neighborhood and the applicant showed photographs of one wall over six feet tall. Mr. Clar said he needs a level play area for his children, which would be accomplished with the retaining wall in front of his property.

Most of the Commissioners felt the proposed wall and fence at 10' would be too high to be fronting the property. Commissioner Kapranos suggested a slight modification of the wall could mitigate the problem. The wall could have a step-like effect with plants in between the steps.

Commissioner Olive pointed out that the applicant chose to live on a sloping lot and, therefore, there is no hardship with the land if the applicant wishes to have a flat frontyard.

The applicant agreed that he would lower the wall and fence; however, he would not like the terrace effect and prefers to stick with the single vertical rise.

M/S Ollinger, Harle, to approve V-772, for 9 Vine Avenue, A/P 7-273-17, for a 19' frontyard variance with a 1' frontyard setback, an 8' sideyard variance with a 0' sideyard setback, and a 2½' height variance for the 8½' high retaining wall and fence, with the top elevation not to exceed 106'0" on the basis that the condition of the land, the size of the building, and the loss of 179 square feet of usable land through a neighbor's construction constitutes a hardship; that the granting of the variances will not be visually detrimental to the neighborhood; and it gives the applicant the use of substantial property rights; and provides for safety of his children; to be in accordance with the drawing received March 27, 1978, and revised April 17, 1978, by the Commission.

Motion passed unanimously.

Applicant was advised of the ten day appeal period.

- D. V-773 - Bernard M. Yosten, 8 Echo Court, A/P 7-231-20, application for a 4' variance for a first floor addition, and a 5'6" variance for a second floor addition to allow these additions 4' and 2'6" from the side property line, respectively.

Bernard Yosten, applicant, present.

Mr. Yosten brought detailed drawings for the Commission and explained that the level of the existing house will be the proposed main level, and the second floor will have three bedrooms (one will be for two children).

Mr. Yosten said the additions are proposed for the north side

of the lot because he wants to keep the south side open for an orchard and gardens. Building on the north side would also require less excavation of land than the south side.

Mr. Yosten said the neighbors in the area enjoy their views through the open space on the south side of his lot. By constructing his additions on the south side he would decrease their views, even though he would be conforming to the required setbacks.

James Stroupe, 274 Oak Avenue, owns the property uphill and adjacent to 8 Echo Court. He expressed concern about the possibility of Mr. Yosten building on his south side within the required setbacks if the variance were not granted to build on the north side of the lot. He felt it would be more of a detriment to him and his property rights if Mr. Yosten does not receive the variances.

Commissioner Harle felt the proposed plan was the most logical way to expand the structure on the lot.

Commissioners Ollinger and Kapranos had difficulty in finding a hardship with the land because it is a large lot. Commissioner Ollinger suggested moving the proposed addition seven to eight feet to the south; this would not require much more excavation.

Mr. Yosten assured the Commission he had tried to place the proposed additions in every area of the property and is only satisfied with the plans submitted.

M/S Harle, Ragan, to approve V-773, application for a 4' variance for a first floor addition, and a 5'6" variance for a second floor addition to allow these additions 4' and 2'6" from the side property line, respectively, for Bernard M. Yosten, 8 Echo Court, A/P 7-231-20, on the basis that the position of the existing building in respect to an on site slope on the north precludes the placement in that direction of the proposed additions; and that the concerns for neighbors' views and other matters on open space act as a restriction in moving the proposed structure to the south; that this placement creates no detriment to the neighborhood; and, in fact, considers the open space and view aspects as positive benefits; and it will permit the enjoyment of substantial property rights.

Motion denied: AYES: Harle, Ragan
NOES: Kapranos, Olive, Ollinger

Applicant was advised of the ten day appeal period.

- E. V-774 - Robert DeVito, 1 Freda Lane, A/P 6-119-15, application for frontyard and sideyard variances to modify an existing car deck and construct a new garage to provide covered on-site parking for the applicant; and to provide two additional parking spaces for guests.

Mr. and Mrs. Robert DeVito, applicants, present; Jim McDonald, architect representing applicants, present.

Ms. McGovern said the applicants had previously been granted a sideyard variance to construct three bedrooms, one bath, a garden room and deck area in 1975.

Mr. McDonald said the applicants desire to have additional parking on their property. He has suggested they slide the new carport structure along the contour of the land and develop the parking and turnaround area along the driveway.

Mr. McDonald also mentioned that three neighbors had given their approval of the application.

M/S Ragan, Ollinger, to approve V-774, application for an 18' frontyard variance to allow a 2' frontyard setback, and a 7' sideyard variance to allow a 1' sideyard setback, for 1 Freda Lane, A/P 6-119-15, on the basis that the odd-shaped steeply downsloping lot constitutes a hardship; that the granting of the variance will

not be detrimental to the neighborhood, instead the neighborhood will benefit from the additional off-street parking; and the granting of the variance is necessary for the preservation of property rights.

Motion passed unanimously.

Applicant was advised of the ten day appeal period.

- F. V-775 - Anita Forrester, 252 San Francisco Boulevard, A/P 6-011-14, application for frontyard and sideyard variances for existing parking to conform to the legal requirement when adding to a dwelling.

Anita Forrester, applicant, present; Jim McDonald, architect representing applicant, present; Richard Tarrant, representing applicant, present.

Mr. McDonald said the applicant is extending her dining room and adding a family room and a glass enclosed hot tub room, all within the required setback lines. Since the structure is being expanded, the applicant is required to conform to the legal parking requirement when expanding his living space.

Mr. McDonald said there is an existing garage which has been used for parking for 30 years, and a boat house which could be used for one parking space. There is no way to get legal parking on this site. There is a second unit which has been registered with the Town.

Some of the Commissioners suggested removing the boat house and paving the area for parking; however, the applicant does not wish to remove the boat house. The Commissioners also suggested removing a side wall of the boat house for easier access to an automobile.

Commissioner Ollinger reminded the applicant that the Commission is considering a proposed change in the ordinance interpretation which would make parking not a use and, therefore, the applicant would not require a parking variance if the proposal is approved.

Mr. McDonald told the Commission that the contractor had made a bid on the job seven weeks ago before the applicant knew of the required parking variance. Mrs. Forrester has secured financing and already paid monies, and cannot wait any longer.

M/S Ollinger, Ragan, to approve V-775, application for an 11'6" frontyard variance with an 8'6" frontyard setback and a 7'6" sideyard variance with a 6" sideyard setback so as to provide the required parking spaces for 252 San Francisco Boulevard, A/P 6-011-14, on the basis that the location of the house is an existing condition; the location of the house on the property does not allow for the required setbacks; the granting of these variances will not be detrimental to the neighborhood because they will benefit from off-street parking; and will provide for the preservation of property rights; with the condition that the existing boat shed be modified for parking use.

Motion passed unanimously.

Applicant was advised of the ten day appeal period.

6. ADJOURNMENT

The regular meeting of the San Anselmo Planning Commission was adjourned at 11:47 p.m. to the special workshop meeting of April 24, 1978.

Lisa Burglin

LISA BURGLIN
PLANNING COMMISSION SECRETARY

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