

TOWN OF SAN ANSELMO  
PLANNING COMMISSION MEETING OF DECEMBER 3, 1990

The regular meeting was convened at 8:00 p.m. by Chairman Yarish in the Council Chamber. Commissioners in attendance were Hayes, Harle, Mihaly, Sias and Julin, with Commissioner Kroot absent. Staff present: Interim Planning Director Wight.

B. CONSENT AGENDA

1. Approval of Minutes

November 19, 1990  
November 26, 1990

Commissioner Julin asked that the minutes of November 19, 1990 be taken off the Consent Agenda and continued to the meeting of December 17, 1990.

M/S Julin/Sias, to approve Minutes of November 26, 1990.

Ayes: Mihaly, Harle, Yarish, Julin, Sias  
Abstain: Hayes

C. PUBLIC HEARINGS CONTINUED TO DECEMBER 17, 1990

1. **V-9023/U-9013/DR-9005 - Jean Brunswick, 22 Magnolla Avenue, A/P 7-212-34, 1) a 5' east sideyard variance to construct a column and beam structure over a driveway within 0' of the east side property line; 2) a variance to exceed the maximum lot coverage; 3) use permit for one residential living unit; and 4) design review of a two story parking, residential, and office structure, on property located within the P zoning district.**

2. **S-9001/V-9037 - Alan and Selma Fishman, 9 Tamal Avenue, A/P Nos 6-042-02 and 6-042-25, 1) lot line relocation; and 2) variance to provide access to A/P 6-042-02 across A/P 6-042-25.**

3. **V-9036 - Jay and Linda Welll, 2 Raymond Avenue, A/P 7-272-16, a 5' south sideyard variance to reconstruct a garage and construct a second story addition within 3' of the south side property line with an 18" roof overhang, located on property within the R-1 zoning district.**

D. PUBLIC HEARINGS

Taken out of order.

3. **V-9041 - Wade and Jerri Childress, 32 Redwood Road, A/P 7-081-60, a 10'6" rear yard variance to construct a bathroom addition within 9'6" of the rear property line, with a 2' roof overhang, on property located within the r-1 zoning district.**

M/S Sias/Julin to continue to the meeting of December 17, 1990 because the applicants could not be present. Motion unanimously passes.

4. **V-9042 - Norman Berlin, 31 Nokomis Avenue, A/P 6-074-40, a 3' sideyard variance to construct a second story addition within 5' of the side property line, with a 2.5' roof overhang, on property located within the R-1 zoning district - AFTER THE FACT.**

The applicant was present.

Planning Intern Whitbeck presented the staff report noting that as of Friday afternoon the Building Inspector notified the Planning Department that the Stop Work Order had been violated and that framing had been done in the area of the sideyard.

Mr. Berlin explained that he was unaware that a variance was necessary and left everything in the hands of the architect. After the plans were approved by the Building Department they started construction. The Building Inspector, upon inspection, noticed that the plans were incorrect and that a variance was required. A red tag was placed on the site and although they should not have continued they wanted to frame the area so they could continue with the rest of the project that was in compliance. He noted that he does have support from the neighbors, including the most affected neighbor at 29 Nokomis.

Commissioner Mihaly stated that the second story master bedroom is approximately 17' x 29', which is quite large. He wondered what the special circumstances were for such a large room. Mr. Berlin stated that the first story is 5 feet from the side property lines and felt it was just natural to continue the lines upward and would look odd if it had to jut in three feet.

Chairman Yarish asked if the applicant understood that all three findings had to be met in order to approve the variance. Mr. Berlin stated that he wasn't quite sure of the process but his

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special circumstances were that he and his family have a lot of money invested in this project and were misinformed by their architect. They were hoping the special circumstances could be a hardship. Mrs. Berlin stated that the first story was 5 feet from the sideyard property line and therefore it would be logical to just follow the existing line and not jut in three feet.

Commissioner Hayes stated that he was hopeful that the Commission could be sensitive to the special circumstances in this particular situation. Perhaps the special circumstances in this case could be the natural extension of the side property lines. Also, it looks like the neighbor at 29 Nokomis has a sideyard setback of 5 feet as well as a second story and the neighbors have no complaints about the variance.

Commissioner Mihaly wondered if the Commission's policy was to treat the variance proposal as if the project had not been started. Chairman Yarish affirmed.

Commissioner Julin asked if staff knew what the side yard setbacks were on the property at 29 Nokomis. Planning Intern Whitbeck stated that he located approved building plans that indicate the side setbacks were 8'. Commissioner Julin stated that she would be able to make the special circumstances if there were other houses in the neighborhood with a 5' sideyard setback and a second story, similar the proposal before the Commission.

Mr. Berlin stated there are other homes in the neighborhood that have been granted variances.

Commissioner Harle was in favor of the proposal but was unable to make the finding.

Commissioner Mihaly stated he was unable to make the finding, and noted just because other houses in the neighborhood may have a 5 foot sideyard setback, doesn't mean this application should be granted. The bedroom is quite large and can be reduced. The Ordinance states the setbacks are 8 feet and he was not able to make the findings to substantiate the variance.

Commissioner Sias said his inclination was to approve the application on the basis that there are other two story homes in the neighborhood with 5 feet setbacks and the neighbors most affected are not complaining. He asked for staff's recommendation.

Director Wight noted that special circumstances have to be specifically related to this lot, such as the shape or topography. She stated that this particular lot is large and there are other places on the lot the addition could be placed. Also, the addition could be reduced.

Chairman Yarish was unable to make the special circumstance findings. Given the site conditions which are generous, the addition could be built elsewhere on the lot. He also said that within this design, he would see ways to redesign the addition without tremendous expense and the loss of only a few days for the contractor. Also, he felt the master suite could be reduced. For those reasons he was unable to approve this application.

Mr. Berlin said that the posts for the second story addition go into the foundation and there would be a substantial expense to change it. He asked for compassion on the part of the Planning Commission in making their decision. He said that the neighbor most affected at 29 Nokomis has no objection to the addition.

Commissioner Mihaly stated that the only special finding he could come up with, although not related to land use was the approach of the rainy weather that would cause a hardship for the property owners in this particular situation.

M/S Sias, Julin, to approve **V-9042 - Norman Berlin, 31 Nokomis Avenue, A/P 6-074-40**, a 3' sideyard variance to construct a second story addition within 5' of the side property line, with a 2.5' roof overhang, on property located within the R-1 zoning district on the basis: 1. Due to special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the controlling zoning ordinance or regulation deprives such property of privileges enjoyed by other property in the vicinity and under an identical zoning classification, and the granting of a variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated; specifically the location of the house is within 5' of the sideyard property line and the addition will not be extending any closer and that there are other multi story properties in the neighborhood that are within five feet of the property line. There is also acceptance of the application in the neighborhood and the addition will not block sun or loom because the property closest to the addition at number 29 Nokomis also has a second story. Special circumstances are that the house at this time is open to winter weather and to deny the variance would subject the owners to a unreasonable hardship. The applicant is not asking for more than what others have, as is evidenced by the neighbors that have signed a petition of support. Also, the orientation of the lot is that it is not perpendicular to the street and the setback is limited to the immediate neighbor, with no affect on the rest of the neighborhood. 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and 3. The granting of such variance, under the circumstances of the

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particular case, will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood.

Ayes: Mihaly, Hayes, Harle, Sias, Julin  
Noes: Yarish

Motion carried. Audience advised of the ten day appeal period.

1. **AR-9005 - Th. F. Posthuma, 379 Oak Avenue, A/P 7-241-61**, architectural review of a 4,879 square foot living addition to the existing single family residential dwelling and a 576 square foot garage on property located within the R01C zoning district.

The applicant was present.

Interim Planning Director Wight presented the staff report.

Chairman Yarish stated that this proposal for the addition looks like a separate dwelling and although the applicant is not seeking a second unit he wondered what the code definition was.

Director Wight stated that a second unit is defined as a unit having separate cooking facilities. For those applications that are not seeking second units but look as though they could be converted, staff requires a deed restriction on the property that is recorded at the Records Office stating that there will be no second unit on the property. She stated that the Second Unit Ordinance needs to be revised.

Commissioner Sias stated that the plans seem to be somewhat lacking in detail and wondered what staff thought. Director Wight said the application was deemed complete by the former Assistant Planning Director however the Commission can require any additional information they feel is necessary to assist them in making their decision.

Ted Posthuma stated that when he bought the house five years ago it was a one bedroom 970 square foot house. Last year he attempted to construct another house incidental to the current house, and was denied. He is now proposing to enlarge the current house but retain the original 1930's art deco' look to the house. With his addition he wants to retain the original garage to store an old car he has and construct another garage farther up Oak Avenue. His intention is to use the upper portion of Oak as the front entrance and the current house will become the rear of the house. This should be beneficial to the neighbors at 367 Oak Avenue because he will not have to use the easement as his primary driveway access. He wants to build the addition out of steel, using 24' squares. He wants a 4 bedroom house, with the current portion of the house being converted into a family room and laundry room. Each independent bedroom is not that large, and the entry, although approximately 700 square feet, is not considered living space. His intention is to use this as a single family residence, not a second unit. He felt the current house could be preserved better by adding an atrium, thus connecting the addition and the current structure. He is proposing the addition to be built between the existing trees on his property, thus screening the house and preserving the landscaping. He will retain the garden to the west of the property as well as the several fruit trees. He stated that the house does not exceed 25 feet in height, and is within all required setbacks. As far as exterior color, he wants to use Navajo White, which is the color of the current house and lends itself to the 1930's look. The majority of the roof will be tar and gravel, with a small triangle shape shown on the plans that will be metal, painted off-white. He has not completely decided on the material for the driveway, perhaps cobblestone or aggregate. Window trim will be dark brown or black and the decks will be a solid membrane. He felt the drainage problem stems from the Leonard property above him at 395 Oak Avenue. His addition will provide for better drainage of his site because all water will be taken out to the storm drains. He also met with his neighbors and presented a signed petition from six of the residents in the neighborhood. In response to the letter from David Basset, Architect for Ms. Leonard, he does not agree with the figures stated with regard to his house. In response to the letter from Mark Kertz, Attorney representing Ms. Leonard, he stated again that he is not proposing a second unit, only an addition to his house, and finally, in response to the owners at 367 Oak, he is not attempting to build on their land.

Commissioner Julin asked if there were photographs of the site, and surrounding sites impacted by the addition. Commissioner Hayes wondered if there were photographs taken from across the valley that would show the impact of the structure and asked if an analysis had been done looking at the site from the downtown area. Mr. Posthuma presented one aerial photograph and said he would be willing to present more at a subsequent meeting. He stated he felt the only point of the house that could be viewed from downtown was the highest peak of the roof of the existing dwelling. The addition was to be hidden between the existing trees on the site and therefore he did not feel there would be an adverse impact.

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Commissioner Hayes wondered why the applicant is proposing a laundry room that is so far removed from the rest of the house. It did not seem to him that it made good planning sense. He thought it still looked like the applicant was trying to construct two separate dwellings, connecting it with an atrium. Mr. Posthuma said that he did not want the laundry area in his garage and felt the current location next to the family room was to his satisfaction.

Mark Kertz, Attorney representing Miranda Leonard at 395 Oak Avenue, stated the applicant once proposed a second unit, then an office, and now an addition. The proposal is at least twice the size of other homes in the area and out of scale in the neighborhood. Last year Mr. Posthuma applied for permission to construct a separate dwelling on the property, with the intention of converting the current home into a home occupation. Prior to the Planning Commission the proposal was withdrawn. This was done at the time the Town Council granted the Interim Ordinance exception on the property. He wanted clarification of this for the record. Mr. Kertz stated that he cited different cases in his memorandum to the Planning Department in reference to this project, dated November 15, 1990, to explain that the Planning Commission is under no obligation to approve the application even if all the applicable codes and ordinances have been met.

Director Wight explained that the Interim Ordinance only allowed the applicant to apply for design review, it does not mean automatic approval by the Town Council.

David Bassett, Architect representing Ms. Leonard at 395 Oak Avenue, said that he was originally retained to investigate the history behind the property. Mr. Posthuma's property at one time was part of the Leonard property and was given to the caretaker for the faithful years of service. Ms. Leonard has an interest in the proposal by Mr. Posthuma because she wants to protect the integrity of her property and will have a distinct view of the addition. His concerns, on behalf of Ms. Leonard are: 1) the drawings are not adequate, more details are required to understand what the proposal is; 2) there is a way to integrate the current house with the addition and this proposal does not look like a single family dwelling; 3) the size of the dwelling is too large. Ms. Leonard's house is 3,500 square feet and her's is one of the larger ones in the area, the average being 2,800 square feet; 4) although it is hard to tell what the design will be because of the inadequate drawings, it takes the appearance of an office building because of all the windows next to each other.

Maryann Cowperthwaite, 141 Oak Avenue, was concerned that the house looked more like two structures rather than one.

Dixie Ruud, 367 Oak Avenue, stated that one of her concerns was that the front of the house will become the rear and this will depreciate materially the value of her property. She also explained that currently Mr. Posthuma was entering his driveway through her access easement. Originally the easement was to be used only by the properties at the end of the lane. It is in very poor shape and in need of repair. She would like to see the existing access driveway removed and have Mr. Posthuma access his property at the location of the new proposed garage which is at the upper section of the property. She would like to see the house scaled down. Currently there is a large shipping container on the site and she is concerned that when the addition is complete, the current garage will become a workshop. The water currently runs off Mr. Posthuma's property and across her easement, making it more unstable. She would like to see some evidence that drainage will be adequate.

Kathy Curtis, 310 Redwood Road, stated there were two houses in the near vicinity that were painted white and these homes are very visible. She felt the color should be darker to blend in with the hillside and the house scaled back. She cited Policy 11.1 of the General Plan with regard to scale, intensity and design of a new dwelling in the hillside area. She would like to see some variation of the roof line to break up the mass. This is a very exposed lot and more thought should be given to the plans.

Gay Kagy, 280 Redwood Road, stated that the size of the proposed house is against the intent of the General Plan. There also needs to be a grading plan and a landscape plan which have yet to be presented. She would like to see information on the proposal to change the access the property. That is right next to a curve in the road on Oak and there are safety issues involved. She was curious if this was a spec house or if the owner intended to live in the house. She felt the house, as proposed, would have an adverse affect on the neighborhood.

Phyllis Wright, 367 Oak Avenue, did not object to the expansion but thought it should be scaled back. She would also like to see the current driveway closed off permanently and have the new access be at the top of the property, closer to the entrance of the property.

Vance Barnett, 303 Oak Avenue, stated that if a house was originally intended as a house, then it should remain a house. He felt the project was out of line with the other houses in the area. Oak Avenue was only 8 feet wide and there was a dangerous curve outside of the easement. He was concerned that this house will become an illegal 2nd unit, just like the house at 181 Oak Avenue has become and the Town can not do anything to control it. He was surprised one of the

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neighbors on Oak signed the petition of approval because she is a constant complainer about noise, dust, and any building that goes on in the neighborhood.

Mr. Posthuma said he understood the concerns of the owners of 367 Oak to not use the access although he thought he had the right to use the easement and is not sure he wants to give it up. He noted that if he added a second story to the existing residence it would be more looming and massive to the neighbors that what he is proposing. Although it may be true that his proposed house is larger than some in the neighborhood, his lot is quite large and he is only using about 20% of his lot and the Municipal Code allows for 40%.

Commissioner Julin felt that a lot more detail and thought should be given to this proposal. She did not think the addition showed integration with the existing structure, that the proposal was too monolithic for such a sensitive hillside area and the exterior color was too light. The site is important enough to have the applicant spend a lot of time carefully designing the project. She felt a model of the project would be helpful for her to visualize the project. The size is too large and visible and has a boxy look to it. She would also like to see changes to reflect the comments of the neighborhood. Over all the project needs thought and tender loving care.

Commissioner Harle echoed the comments of Commissioner Julin about the design of the project although he was not concerned about the size of the house because the lot was large however, he felt the house should not be imposing. He was not sure it would be appropriate to follow the design of the current house, because he thought it might have an institutional look. He would like to see story poles erected showing the footprint of the building and the current colors will project a large, bulky look from the distance.

Commissioner Mihaly stated that he was concerned that by continuing the concept of the original structure to the addition might take the applicant down the road to problems and therefore was not sure he should pursue the same look. He felt the current proposal was too large, more details were needed such as roofing and siding, landscaping plans. He thought story poles were a good idea and possibly a model. He did not think this current proposal was in compliance with current zoning requirements regarding Single Family Dwelling.

Commissioner Sias felt the house was too large, the design appears to be more than one house which is against the intent of the General Plan and the zoning requirements. He would like to see the house reduced to be in scale with other houses in the neighborhood. The exterior color should be darker, more earth tone, and he would like to see details in elevation, a model and color samples. A model would be nice. The current proposal is monolithic, gives the appearance of an office building and is not very attractive. The current proposal was for two driveways and wanted to know if that was allowable in the Ordinance. He liked the idea of the proposal for the new driveway, and permanently closing off the lower driveway. That would remove suspicion of a second unit. He would also like to see a landscaping plan.

Commissioner Hayes concurred with the comments of his colleagues and added that the current proposal looks like two houses patched together. He also did not think the laundry room was functional, being so far removed from the rest of the house. He cited Policies 9.3, 10.3 and 11.1 of the General Plan. He indicated that the current structure is massive and has to be reduced in size, with the exterior color to blend into the hillside. He felt this design was out of character with the neighborhood. He thought more work was necessary by the applicant.

Chairman Yarish thought the concept of enlarging the house in the art deco' style was good. The current house is very handsome with a lot of detail. He said that the site was very visible and any structure built there has to have a low visual profile. The current proposal appears massive and bulky. He was not as concerned about square footage as he was at the appearance of the structure. Because it will not be cut into the hill it will appear to be spread out. Also, the exterior wall plains are large. Although he felt the concept of enlarging the house in the art deco' style was good, he did not think the applicant designed the addition well. The difference in scale details are not present and the style of window banding is difference from the current and the proposed and the articulation of the shakes are not to side for the current and proposed. Chairman Yarish would like to see further submittals of a landscape plan, details of window railings, corners and roof conditions, pads and driveway proposals. He would like to see a site line study and sections through the building that allow the Commission to get a sense of the height. The exterior colors are too light and visible from the street. He would like to see story poles, proposals for a driveway access. He also liked the idea of limiting the access to one area. He was aware that the drainage plan will be necessary at the building stage, and not a requirement of the Planning Commission, but he was hopeful that the applicant would be able to address the concerns of the neighbors at the next meeting.

Mr. Posthuma asked how many linear feet was required to have in common with the original house before the Planning Commission will be satisfied that he is not proposing a second unit. He also asked if there was a square footage that was acceptable to the Commission if his proposal was not adequate.

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Chairman Yarish stated that visual impact was the most important criteria as far as he was concerned.

M/S Sias, Hayes, to continue AR-9005 - Th. F. Posthuma, 379 Oak Avenue, A/P 7-241-61, architectural review of a 4,879 square foot living addition to the existing single family residential dwelling and a 576 square foot garage on property located within the R-1 C zoning district. The continuance is to the meeting of January 7, 1991, to allow the applicant time to make any changes, keeping in mind the comments made of the Commissioners at this meeting.

Motion unanimously passed.

Commissioner Julin excused herself from the rest of the meeting at 11:20 p.m.

2. **V-9040 - Mr. and Mrs. John Hanley, 35 Suffield Avenue, A/P 5-129-10, a 6'6" rearyard variance to construct a first story addition within 13'6" of the rear property line, with a 2' roof overhang, on property located within the R-1 zoning district.**

The applicant was present.

Planning Intern Whitbeck presented the staff report.

The Commission was in support of this application with Commissioner Harle noting that this is a notch filler.

M/S Sias/Hayes, to approve V-9040 - Mr. and Mrs. John Hanley, 35 Suffield Avenue, A/P 5-129-10, a 6'6" rearyard variance to construct a first story addition within 13'6" of the rear property line, with a 2' roof overhang, on property located within the R-1 zoning district on the basis:

1. Due to sp[pecial circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the controlling zoning ordinance or regulation deprives such property of privileges enjoyed by other property in the vicinity and under an identical zoning classification, and the granting of a variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated; specifically the short length of the lot makes it impossible to add on without encroaching into the setbacks and this is a notch filler and will not be extending the house any further to the rear than it currently is; and 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and 3. The granting of such variance, under the circumstances of the particular case, will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood specifically, there is a solid fence that protects the privacy of the applicants and the people to the rear. This approval is based on plans dated 8/7/90.

Motion unanimously passed. Audience advised of the ten day appeal period.

E. GENERAL DISCUSSION

F. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

G. ADJOURNMENT

The regular meeting was adjourned at 11:45 p.m. to the workshop meeting at 7:00 p.m. on December 10, 1990, followed by a public meeting at 8:00 p.m. on the Zoning Ordinance Revisions.

BARBARA CHAMBERS