

TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF AUGUST 20, 1990

The regular meeting of the Planning Commission was called to order by Chairman Yarish at 8:00 p.m. in the Council Chambers. Staff present: Dain Anderson, Assistant Director of Planning; and Lisa Wight, Planner.

A. ROLL CALL

Commissioners Present: Harle, Hayes, Kroot, Sias, Julin, Yarish
Commissioners Absent: Mihaly

B. CONSENT AGENDA

1. Approval of Minutes of the meeting of August 6, 1990 - CONTINUED

2. **V-9018 - Roland Niemcewicz, 120 Redwood Road, A/P 7-081-49, 1)** a 20' 0" front yard variance and a 2' 0" north side yard variance to construct a parking deck within 0' of the front property line and within 6'0" of the north side property line (a separate encroachment permit will be required); and 2) a variance for a second driveway, on property located within the R-1 Zoning district. Staff requested that this item be taken off the consent agenda and be placed with the public hearings.

C. APPLICATIONS WITHDRAWN

1. **V-9010 - Norman Vachon, 12 Fern Lane, A/P 7-015-02,** a 3'0" north side yard variance and a 11'0" rear yard variance to construct a living addition within 5'0" of the north side yard property line and within 9'0" of the rear yard property line, with a 1'0" roof overhang, on property located within the R-3 Zoning District.

D. APPLICATIONS CONTINUED TO THE MEETING OF SEPTEMBER 10, 1990

1. **V-9023/AR-9006 - Jean Brunswick, 22 Magnolia Avenue, A/P 7-212-34, 1)** a 1'0" front yard variance, a third story variance, and a building height variance to construct a professional office building; 2) a variance to exceed the maximum allowable lot coverage of 60%, and 3) a parking variance to allow inadequate parking, and design review, on property located within the "P" Zoning District.

D. PUBLIC HEARINGS

1. **V-9018 - Roland Niemcewicz, 120 Redwood Road, A/P 7-081-49, 1)** a 20' 0" front yard variance and a 2' 0" north side yard variance to construct a parking deck within 0' of the front property line and within 6'0" of the north side property line (a separate encroachment permit will be required); and 2) a variance for a second driveway, on property located within the R-1 Zoning district.

The applicants were present.

Planner Wight presented the staff report.

Mr. Niemcewicz stated that he has no objection to reducing the height of the hedge but does not agree with staff's recommendation that the hedge also be moved closer to the house because there would be no room to walk by the house. The hedge is also used as a shield from lights of on-coming cars.

Planner Wight noted that staff's recommendation to move the hedge is for line of sight for on-coming traffic.

Commissioner Hayes said the Town advocates off-street parking and parking is especially difficult on Redwood. He was therefore inclined to support the application.

Commissioner Kroot stated that he noticed a potential danger with traffic coming up the hill and therefore he feels that the hedge would be a detriment if moved. He would however like to see the height of the hedge reduced.

Commissioner Julin supported the application with staff's recommendations that the hedge be moved and lowered.

Commissioner Harle supported the application with the condition that the hedge be reduced to 3 feet. He felt moving the hedge would be an intolerable burden on the house.

Commissioner Sias asked if there were Police records that indicate the number of accidents caused in the proximity of 120 Redwood Road.

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Mr. Niemcewicz indicated that most of the accidents are not serious and the police have not been involved. Mrs. Niemcewicz added that many accidents occur when vehicles are backing out of the driveway across the road.

Commissioner Sias was inclined to approve the application with the condition that the hedge be trimmed down to 3 feet.

Chairman Yarish concurred that the hedge should be trimmed down to 3 feet.

M/S Kroot, Sias, to approve V-9018 - Roland Niemcewicz, 120 Redwood Road, A/P 7-081-49, 1) a 20' 0" front yard variance and a 2' 0" north side yard variance to construct a parking deck within 0' of the front property line and within 6'0" of the north side property line (a separate encroachment permit will be required); and 2) a variance for a second driveway, 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 small size of the lot, the slope of the lot, and the location of the house being so close to the road; 2) The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner, specifically that it is a reasonable request to provide a second driveway and additional on-site parking as tandem parking is not always workable. Due to the steepness of the lot it is also reasonable to have a frontyard variance. 3) The granting of the 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 two additional parking spaces will be provided off street. Condition of approval is that the hedge be reduced to a maximum of 3 feet above grade and that the homeowner continue to maintain the maximum of 3 feet height. This approval is based on the revised drawings dated August 15, 1990.

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

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

Commissioner Julin commented that community safety standards should be followed as is suggested in staff's recommendation. She did not feel it would be a hardship to ask the applicants to move the hedge.

2. U-9009 - Anthony House, 128 Butterfield Road, A/P 5-111-59, a use permit to allow the establishment of transitional housing for women and children within an existing single family detached residential unit and legal residential second unit, on property within the R-1 Zoning District.

Kathy Richards, Donna Garske, and Attorney Fay D'Opal, were present representing Anthony House.

Assistant Director Anderson presented the staff report.

Commissioner Julin questioned staff's statement that there had been no prior discretionary actions. Assistant Director of Planning Anderson said he stands corrected as this project has previously had a Use Permit for a second unit in 1987.

Commissioner Julin also asked if Anthony House is allowed the use of Transitional Housing and not a 2nd unit, will this mean there will be room for an additional second unit in the neighborhood. She also wondered how this property could remain R-1 if there are two homes on the site. She felt there would be a clear conflict with the Code. Mr. Anderson affirmed that there would be an additional opening in the neighborhood for a second unit and would have to address Commissioner Julin's other question to the Town Attorney.

Commissioner Harle felt that if a quasi-institutional use is allowed in the Code, there would be no conflict with this property having two dwellings. He added that if this property is sold, the new owners will have to apply for a 2nd unit use again and there will be no guaranty that space will be available in the neighborhood.

Commissioner Sias asked if the San Anselmo Police had been notified of the intended use of the property.

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Kathy Richards, Chairperson of Anthony House, stated that they have not been in contact with the San Anselmo Police Department. They have been operating in San Rafael for the past 12 years. Henry Ingwersen, Chief of Police in San Rafael has written a letter stating that there has been no excessive traffic, noise, or crime problems at, or around, Anthony House. She also has received a letter from Joseph Winkler, from the firm of A. M. Crofts, who has appraised the property in San Rafael. He states that there is no evidence that its presence or usage in the neighborhood has had any negative value influence on surrounding properties. .

Ms. Richards stated that there is off-street parking for 6 to 8 cars although they do not anticipate using all the spaces. Most of the residents do not own vehicles and rely on public transportation. There is usually one to two staff people on the premises during the day and these people do have cars. Although Anthony House has indicated there would be a maximum of 16 people residing at the site at any one time, the average capacity has been 8. She said that Anthony House is transitional housing for mothers and their children. Anthony House does not serve drug or alcoholic woman. The women are totally self sufficient.

Margaret Hanson, 40 Rosemont, said she has been affiliated with Anthony House for 9 years and is very supportive of the organization. There are rarely any cars on site and the only noise would be that of the children.

Bill DeBishop, 98 Elm Avenue, felt the project was a good idea but wanted to see if a limit could be set on the number of people living on the site at any one time.

Bill Foti, 111 Butterfield, wondered if the women have been through a drug rehabilitation program, if they have been battered, if they were allowed to have visitors, and if increased traffic had been considered because of the number of women living on the premises at any one time. He felt the idea was good, but the location was bad because it is close to a school and there was already too much traffic on Butterfield Road.

Lidija Grzac, 127 Butterfield, stated that traffic on Butterfield was already a problem, and that this use in her neighborhood would be awkward.

Marion Abel, 132 Butterfield, was for the project but not in his neighborhood.

Frank Tredway, 127 Butterfield, was against the project because it would change the character of his neighborhood. The site is difficult for police to access because of the narrow driveway. Some of the community feeling would be lost by having women in transition living in the neighborhood. Also, the pool would be a hazard for small children.

Sheila Doyle, 70 Forbes, said she has been affiliated with Anthony House for the last 10 years and there has never been an occasion for police intervention. Also, most of the women do not have vehicles and use public transportation so parking or additional traffic should not be a concern.

Phil Bundscu, 421 The Alameda, said the premises at 128 Butterfield would be ideal for this type of organization. He is familiar with Anthony House and it has a wonderful reputation from the Governor of California on down to the local levels. He felt it is in the interest of the State Government and the community as whole to have Anthony House in San Anselmo.

Maryann Johnson, 131 Butterfield, was concerned about increased traffic and the rezoning of the property because of this intended use.

Judith O'Roarke, 87 Butterfield, wondered if Anthony House was a branch of Marin Abused Womens Services. She knows and respects MAWS. She was curious to the maximum number of people allowed on the premises and who the women and children were that would have the need for Anthony House.

Resident, 140 Butterfield, asked if the use could be revoked once it is approved. Noise would be his concern.

Norman Weires, 136 Butterfield, stated that the creek is a hazard for small children and wondered if a fence would be built to protect the children.

Sally Weires, 136 Butterfield, felt there was a need for the Town to prepare an Environmental Review. She also said the creek was a hazard for small children and that a fence would be needed to protect the children. She did not want any more noise in the neighborhood, stating that she already has to contend with the school yard and the fire house.

Kathy Richards stated that the women that live at Anthony House want a quiet, safe place to stay. The women stay anywhere from two days to eight weeks. Anthony House is relocating from San Rafael were we currently house six to eight people at a time. She stated that children are never left unattended and that they were fully expecting to fence the pool and the creek.

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Commissioner Harle wondered if an imposed limit of sixteen people on the premises would be acceptable to Anthony House.

Fay D'Opal did not think that would be a problem. Also, a limit of 6 cars on the property could also be imposed; four on-site and two in the garage. Anthony House wants to be a good neighbor.

Kathy Richards said there are five bedrooms in the main house and two in the second unit and therefore feel they could accommodate a maximum of sixteen people.

Commissioner Hayes asked if there were any restrictions on the use permit in San Rafael. Kathy Richards stated the Use was for a maximum of 14 people, renewable annually.

Commissioner Julin asked for the definition in the General Plan that talks about "Quasi-Institutional" in the R-1 District. Assistant Director of Planning Anderson read the section from the General Plan.

Commissioner Kroot said that he felt Anthony House sounded like an excellent organization; the location was good for the use, the parcel is large enough to accommodate them, there is easy access to public transportation, and the site was relatively quiet and he would support the use with up to 16 residents and a maximum of 6 cars with a review within one year.

Commissioner Julin supported the use in the location and would like to see it go forward in a positive way. She would also like to see some dialogue between the applicants and the neighbors to resolve some of the differences. She would like to see a fence around the pool, all other staff recommendations stated in the staff report and a maximum of 16 residents on site at one time.

Commissioner Harle supported the proposal with the conditions that there be no more than 16 residents on site at one time, a maximum of six cars on site, with a review of the use within six months after occupancy, twelve months after that and then an 18 month review.

Commissioner Sias felt that the site was perfect for the use because of the close proximity to public schools and public transportation, and that there will be a fence around both the pool and the creek but did not think the Commission was ready for approval yet. There should be additional dialogue between the neighbors and Anthony House, between Anthony House and Staff and the San Anselmo Police Department, and with the neighbor who will share the driveway and has been out of Town and not aware that there is a proposal from Anthony House.

Commissioner Hayes felt that Anthony House provides a valuable service to the community and that they have a proven track record as stated by the Chief of Police of the San Rafael Police Department. However, he does understand the neighbors concerns. They feel the nature of the neighborhood will change. He wondered if Anthony House would be receptive to having a neighborhood representative invited to some of Anthony House Board of Director's meetings to help the neighbors better understand Anthony House.

Kathy Richards said she had no problem with a neighborhood representative.

Fay D'Opal stated that they have been in contact with 18 of the 36 people who were noticed about the hearing. Out of the 18 people, only 2 were opposed to the use, the others were non committal. We encourage a dialogue with the neighborhood and we want to be a good neighbor. She said anyone that has question regarding Anthony House may also contact her at her law firm, 258-0188.

Commissioner Hayes understood Commissioner Sias's concern about the adjacent neighbor not being aware of the proposal for Anthony House however he did not feel the neighbor would come up with any additional concerns that had not already been raised.

Chairman Yarish said the community has a responsibility to help out and it is his understanding Anthony House has been looking for four years for the right location. This site is good because it is near a public school and public transportation. He supported the use proposal with the other conditions made by the Commission.

M/S Sias, Julin, to continue U-9009 - Anthony House, 128 Butterfield Road, A/P 5-111-59, a use permit to allow the establishment of transitional housing for women and children within an existing single family detached residential unit and legal residential second unit, on property within the R-1 Zoning District; 1) to notify the neighbor that shares the driveway with 128 Butterfield; 2) to notify the San Anselmo Police Department and advise them of the indented use; 3) verify with the San Rafael neighbors that there was no concern in the neighborhood; 4) contact the San Rafael Planning Commission and request information detailing the organization;

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5) allow additional time for dialogue between the neighborhood representative and/or neighbors and Anthony House.

Fay D'Opal stated that they need a decision by the Planning Commission tonight because they have time restrictions on the purchase of the house. Their deadline is on Thursday and therefore do not seek a continuance. She felt that the delay might be unfounded just because of the one neighbor. The Town properly noticed the neighbors and they therefore request a vote tonight.

Judith O'Roarke, 87 Butterfield, stated that she felt all the questions had been adequately answered and is therefore willing to endorse the proposal of Anthony House in her neighborhood.

Commissioner Julin concurred with Commissioner Sias's comments. If a vote had to be taken tonight she felt she would have to vote denial.

Chairman Yarish did not think the one neighbor's views would change his decision. He felt the on-going dialogue should start now between the neighbors and Anthony House.

Ayes: Julin, Sias

Noes: Harle, Kroot, Hayes, Yarish

Motion to continue denied.

M/S Harle, Hayes, to approve U-9009 - Anthony House, 128 Butterfield Road, A/P 5-111-59, a use permit to allow the establishment of transitional housing for women and children within an existing single family detached residential unit and legal residential second unit, on property within the R-1 Zoning District; on the basis that the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property or improvements in the neighborhood or the general welfare of the town, and that the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner. There has not been any evidence presented to suggest that the proposed use will conflict with the existing residential neighborhood. Further, the proposed use is considered a residentially oriented quasi-institutional use, which under provisions of the 1988 General Plan, is conditionally permitted within the R-1 District. It is not anticipated that the demand for parking or the generation of vehicular trips will significantly exceed that generated by the conventional use of the existing single family residence and residential second unit. Therefore, the establishment, maintenance, and operation of the use and building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, nor be detrimental nor injurious to property or improvements in the neighborhood or the general welfare of the town, and that the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner. Conditions are: 1) occupancy be limited to 16 at one time; 2) on-site parking limited to 6; 3) swimming pool to be fenced; 4) adequate safety fence to be installed at creek side; 5) fence around the swimming pool and creek will be subject to design review; 6) use permit to be brought back to the Planning Commission for review after six months, twelve months, and eighteen months.

Ayes: Kroot, Hayes, Harle, Yarish

Noes: Julin, Sias

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

Commissioner Julin wanted it noted for the record that she supports the proposal but voted no because she felt it was premature to vote tonight in light of the neighbors present objections

3. **V-9019 - Pat Waters and Denelle French, 76 Elm Avenue, A/P 7-053-12, a 4'3" north side yard variance to construct first and second story living additions within 3'9" of the north side yard property line, with a 1'0" roof overhang, on property located within the R-1 zoning District.**

The applicants were present along with their Designer, Peggy Hosmer.

Planner Wight presented the staff report.

Danelle French stated that it could be quite costly to construct the second story closer to the center as suggested by staff.

Pat Waters added that they wanted to continue the existing lines to have the addition conform to the rest of the house.

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William DeBishop, 98 Elm Avenue, supported the proposal, noting that if the second story had to be constructed in the center as suggested by staff, it would protrude and be more visible to the neighbors.

Commissioner Julin supported the recommendations by staff which were to support the first story addition, and deny the second story addition.

Commissioner Harle supported the entire application in principle however he would not be able to make the findings for the addition of the second story.

Commissioner Sias supported the first story but rejected the second story addition based on staff's findings.

Commissioner Hayes thought that another support structure would have to be built to support the second story if it was constructed towards the center as suggested by staff. If that was the case, he thought that would be unreasonable and that he could support the second story variance. He was able to support the first story variances because it was just a continuance of the existing lines of the house.

Commissioner Kroot felt the advantages of the second story addition as proposed was that it would be the least obtrusive and that there is a grove of trees to the rear of the property that would obstruct the addition if it were in the setbacks.

Chairman Yarish agreed that it would be somewhat preferable to construct the second story more to the center however it would be at the expense of the residents on Morton Lane. He added that he did not feel the cost would be dramatic.

Peggy Hosmer indicated that there would be an increase in costs due to the seismic loads.

There was a discussion among the Commissioners. Kroot, Harle and Hayes did not feel the addition was unobtrusive. Sias and Julin stated that the second story could be made within the setbacks and therefore no variance was required. Sias added that although the addition was unobtrusive, they have to work within the current regulations that guide the Town.

M/S Sias, Julin, to approve V-9019 Pat Waters and Denelle French, 76 Elm Avenue, A/P 7-053-12, a 4'3" north sideyard variance to construct a first story living addition within 3'9" of the north side property line, with a 1' roof overhang and to deny the 4'3" north sideyard variance to construct the second story living addition within 3'9" of the north side property line 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 limitation upon other properties in the vicinity and zone in which such property is situated.

First story addition:

The special circumstances applicable to the property are the location and configuration of the existing dwelling. This addition is considered a "Notch filler" as it is a small continuation of the north and west horizontal building lines and the existing north wall is within 3'9" of the north side property line. Other dwellings in the neighborhood are constructed within the minimum setbacks, so the granting of the variance will not be a grant of special privileges.

Second Story Addition:

Special circumstances are not applicable to the second story addition. The lot is substandard in size and lot width, but the lot width is fairly typical of properties on this side of Elm Avenue. It is possible to construct a two bedroom, one bath addition within the minimum Code required setbacks by expanding towards the east and south. The granting of this setback variance should not be considered a grant of special privileges inconsistent with other construction in the area.

2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner.

First Story Addition:

The property is located within an R-1 zoning district and the property owners currently enjoy the right of a single family dwelling. However, the existing dwelling was constructed within 3'9" of the north side property line and this addition is just squaring off the rear of the dwelling. It could be

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argued that the continuation of the horizontal lines of the north and west walls to gain additional living area for a very small dwelling is necessary for the enjoyment of substantial property rights.

Second Story Addition:

Since it is possible to redesign the second story addition to conform to the minimum Code requirements, this variance is not necessary for the enjoyment of property rights.

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.

First Story Addition:

The addition should not have an adverse impact on the neighborhood. The proposed addition is next to an existing gravel driveway on the northerly property at 72 Elm Avenue. The dwelling at No. 72 is setback approximately 50' from the proposed addition. Staff has received a letter of support from the owners of No. 72, who have asked that the existing bay trees remain on the common side property line, which is the intention of the applicants. The addition will not be visible from dwellings across the street on Elm Avenue, nor the southerly dwelling at No. 82 Elm Avenue because the addition is a notch filler in the rearyard and the existing trees provide screening. The westerly dwelling at No. 12 Morton Lane will not see the addition due to the existing garage on subject property.

Second Story Addition:

The addition should not have an adverse impact on the neighborhood. The addition should not have an adverse impact on the northerly neighbor at No. 72 because the dwellings are approximately 50 feet apart and the proposed addition is next to an existing gravel driveway. As mentioned previous, the owners of No. 72 have submitted a letter of support. although the addition will be setback 17 feet from the front wall of the existing dwelling it will be very visible from all the surrounding properties.

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

4. V-9022 - Richard and Judith Storms, 25 Scenic Avenue, A/P 7-081-23, 1) a 9'0" front yard variance and a 5'0" east side yard variance to construct first story living and garage additions within 11'0" of the front property line and within 3'0" of the east side yard property line; 2) a variance to exceed the maximum allowable lot coverage of 40%; and 3) a parking variance to allow the creation of a substandard parking space, on property located within the R-1 Zoning District.

The applicants were present.

Assistant Director of Planning Anderson presented the staff report.

Mr. Storms stated that they currently have a carport and are able to park three cars off site and there have been no objections from the neighbors on their proposal.

Mr. Storms indicated that they are the only house in the neighborhood without a garage.

Chairman Yarish asked about the possibility of moving the proposed garage back two feet. Mr. Storms stated that by moving the garage back two feet would reduce the width of the kitchen and take away counter space.

Commissioner Harle was unable to make the necessary findings for approval.

Commissioner Sias could not support the enclosed garage as proposed but wondered if the applicants considered sacrificing some of the deck in the rear to allow the garage to be setback.

Commissioner Hayes felt that the applicants would be creating a more massive appearance even though the sideyard setback will be reduced.

Commissioner Kroot was in support of this addition as long as the garage does not become substandard. He added that although there will be increased bulk there will be more of a uniform look to the house. The garage will not be any larger than the existing carport. If the addition is moved to the side it will take away from the dining room, if moved more to the rear, it will take away from the useable space in the kitchen. Therefore the proposal by the applicants is the most logical.

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Commissioner Julin agreed with the staff recommendation of denial for the variance as proposed.

Chairman Yarish stated he would lean more towards approval if the garage was shifted to the rear.

Mr. Storms indicated that the garage proposal will actually be farther to the rear than the carport currently is.

Mrs. Storms did not feel the garage would create a mass. They are trying to maintain the current lines of the house and they are unable to build to the rear because of the deck.

Assistant Director Anderson noted that if the garage was reduced, it would be substandard.

The Commission was willing to continue this item to allow the applicants time to consider the alternatives.

M/S Julin, Hayes, to continue V-9022 - Richard and Judith Storms, 25 Scenic Avenue, A/P 7-081-23, 1) a 9'0" front yard variance and a 5'0" east side yard variance to construct first story living and garage additions within 11'0" of the front property line and within 3'0" of the east side yard property line; 2) a variance to exceed the maximum allowable lot coverage of 40%; and 3) a parking variance to allow the creation of a substandard parking space, on property located within the R-1 Zoning District to the meeting of October 1, 1990 to allow the applicants time to revise their design incorporating comments made at the meeting this evening.

Motion unanimously passed.

E. ZONING ORDINANCE REVISION WORKSHOP - Continued to the Special Meeting of August 27, 1990.

F. GENERAL DISCUSSION

G. REPORT ON UPCOMING APPEALS TO TOWN COUNCIL

Marksbury, 55 Sais for appeal of approval of the second unit. The matter was denied by Council.

H. ADJOURNMENT

The regular meeting was adjourned at 12:30 p.m. to the special meeting scheduled for August 27, 1990.

BARBARA CHAMBERS
ADMINISTRATIVE SECRETARY