

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF JULY 20, 1992**

The regular meeting of the San Anselmo Planning Commission was convened at 8:00 in the Council Chamber with Chairman Kroot presiding. Commissioners present were Julin, Harle, Sias and Hayes arriving at 8:05. Commissioner Mihaly was absent. Staff present was Lisa Wight Planner, Delvin Washington Planning Consultant and Ann Chaney Planning Director.

B. CONSENT

1. Minutes - July 6, 1992

2. **U-9204 - Glen K. Miwa for Comforts Restaurant, 335 San Anselmo Avenue,** A/P 7-252-18, Use permit for on- and off-sale of beer and wine, on property located within the C-2 Zoning District.

M/S Harle/Julin to approve consent agenda. Motion carried with Sias to abstain on the Minutes of July 6, 1992. The audience was advised of the ten day appeal period.

C. PUBLIC HEARINGS

1. **Water Well Ordinance - Town of San Anselmo** - A General Plan Amendment and Ordinance Code Amendment to allow private domestic water systems and the adoption of a well ordinance relative to their construction, reconstruction, maintenance, removal and monitoring.

Director Chaney presented the staff report. Her recommendation was that the Commission not adopt the Ordinance and General Plan amendment at this time because the Town Attorney is still researching the outstanding issue of whether water from the municipal water district is available to a site, should a property owner be required to hook up to it and thereby be precluded from drilling a well.

Commissioner Sias wondered why wording for the General Plan Amendment was not included in this staff report. Director Chaney indicated that it will be prepared when the Ordinance is eventually adopted if it is necessary at that time.

Commissioner Sias wondered what the impact would be on the environment if wells were allowed. Has research been done on this? Director Chaney stated that she will research that area further but noted that aquifers are not an exact science.

Commissioner Harle asked if there was a provision for auxiliary wells as a back up source of water. Director Chaney felt that auxiliary wells would be allowed because they would not be used as the primary source of water.

Commissioner Julin asked if the State Water Well Ordinance would apply until San Anselmo adopts their own. Director Chaney affirmed but noted that she has spoken with a water well attorney who thinks the State Ordinance can be tested in court.

Chairman Kroot felt that the hold harmless clause should be recorded with the property so that future owners would be made aware up front. He also felt that any new well should be in place and approved with the appropriate permits prior to the issuance of a building permit for construction of a new home.

Scott Hochstrasser cited a letter dated on April 4, 1991 from the Town Attorney that indicated he encouraged the Planning Commission and Town Council to adopt a water well ordinance. Mr. Hochstrasser stated that he is now very surprised that the Town Attorney is researching this issue further because in a previous memo from the Town Attorney he stated that the Town was required to permit water wells. He felt it was in the best interest of the Town to proceed as quickly as possible.

M/S Sias/Hayes, to continue Water Well Ordinance - Town of San Anselmo - A General Plan Amendment and Ordinance Code Amendment to allow private domestic water systems and the adoption of a well ordinance relative to their construction, reconstruction, maintenance, removal and monitoring.

2. **V-9221/U-141 - St. Nicholas Church, 102 Ross Avenue,** A/P Nos. 7-281-19 and 7-281-22, 1) use permit amendment to expand a church facility and 2) a 3' east sideyard variance to expand an existing building within 5' of the east side property line with an 18" roof overhang, on property located within the R-1 Zoning District.

Andy Zaharoff, Contractor, was present to represent the Church.

Ms. Wight presented the staff report.

Mr. Zaharoff stated that the lot was L shaped in the vicinity of the old hall. If the hall was moved forward as suggested by staff it would impede the area of the church. During certain ceremonies the church and hall are used simultaneous and the narrowness of the space would

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not allow for proper flow.

Jim Paymar, 89 Woodland, was against the expansion because his property is only 18" from the existing side wall. When the church has their functions he has to leave his house because of the noise. To expand would further exacerbate the situation. Several of the houses surrounding him are very close together and he did not want to see another property move closer to his property.

Chairman Kroot wondered how Mr. Paymar would feel about the addition if the wall facing his property had no windows. He wondered if the sound could therefore be muffled and the noise greatly reduced. Mr. Paymar did not think that would work because he would still feel closed in and would view a long wall. He also felt the addition would bring additional traffic and noise.

Mr. Zaharoff stated he would be receptive to building the addition without windows. There is a proposal for central air conditioning and the windows would not be required.

Commissioner Sias felt that it would be very difficult to make the findings for approval because of the objection of the neighbor and the fact of the close proximity of the addition to the neighbor without mitigating circumstances. He suggested the applicants try to rework the interior space and perhaps incorporating staff's suggestion of moving the addition forward.

Commissioner Harle was unsteady in making the findings but felt he could approve the addition if the windows were removed because he thought the situation would be an improvement for Mr. Paymar in that noise would be severely reduced. He also stated that because of the religious ceremony the expansion is required as proposed by the applicants to allow for amply space to walk around the church.

Commissioner Julin asked what the current conditions were on the Use Permit. Ms. Wight stated that the church has been there for several years and no restrictions exist at this time.

Because the church is in a residential neighborhood, Commissioner Julin felt this was a good time to look at conditions and therefore she was inclined to vote for a continuance.

Commissioner Hayes has seen some of the development over the years in the neighborhood and it has seriously changed the character of the neighborhood. He wanted to accommodate the expansion but agreed that the existing structure is almost at the property line now and the neighbor has compelling reasons for his objection to the project. In this case he felt the neighbor was the victim but wondered if this expansion could also be a benefit to Mr. Paymar in that noise would be reduced by the removal of the windows and adequate sound insulation as well as landscaping the side of the wall with trellises and vines to soften the wall. He agreed that perhaps future discussion was necessary and he admitted that he would like to do another site visit to view the proposal from Mr. Paymar's residence on Woodland. He also suggested that the church have some dialogue with Mr. Paymar to see if a solution could be worked out.

Chairman Kroot agreed with his colleagues and added that the skylights should remain closed which will also muffle the sound.

Ms. Wight suggested that if the project was to be continued, the applicant provide a complete floor plan of the site and a site plan which includes the neighboring properties.

Mr. Paymar was still not comfortable with the expansion even with the windows removed because he would still view a structure very close to his property.

M/S Sias/Julin, to continue V-9221/U-141 - St. Nicholas Church, 102 Ross Avenue, A/P Nos. 7-281-19 and 7-281-22, 1) use permit amendment to expand a church facility and 2) a 3' east sideyard variance to expand an existing building within 5' of the east side property line with an 18" roof overhang, on property located within the R-1 Zoning District. This is continued to the meeting of August 3, 1992 to allow the applicant time to: 1) prepare a complete floor plan; 2) prepare a plot plan that includes the surrounding structures; 3) have a dialogue with the neighbors objecting to the expansion; and 4) consider the possibility of changing the plan to removal all windows from the wall, add increased insulation, the addition of trellises against the wall with vines to soften, keeping the skylight closed, the possibility of extending the dining area and reconfigure the interior space to allow for better circulation, and the idea of maintaining the Victorian look. Motion unanimously passed.

3. V-9222 - Rusty Driscoll and Frances McCormack, 25 San Francisco Blvd., A/P 6-031-04, a 1'3" north sideyard variance to construct a first story addition within 6'9" of the north side property line with a 1' roof overhang; and a 4'6" south sideyard variance to construct a 1' wide stucco wall extension of the proposed addition (to serve as a patio fence) up to 8' in height above grade within 3'6" of the south side property line, on property located within the R-1 Zoning District.

The applicant's designer John Fernandez, was present.

Ms. Wight presented the staff report.

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Mr. Fernandez stated that they looked at several plans and felt that this proposal would have the least impact on the neighbors and still allow his clients to have their addition. Staff's proposal would not be workable because of the proposed location of rooms and patio. He felt this addition was consistent with what is going on in the neighborhood and his clients are also trying to save the tree by building the addition around it.

Bob Hornstein, 19 San Francisco Blvd, has the property to the south and fully supports the proposal in that it improves the neighborhood by improving the site and adds to his property values.

Jeannie Low, 19 San Francisco Blvd, stated that she approves of the saving of the redwood tree and the fact that the placement of the addition elsewhere on the lot could negatively impact their views and privacy.

Chairman Kroot asked if the wall were reduced to 6' would it then be considered as a fence. If that is the case, the fence is permitted under the code. Ms. Wight affirmed that it could be considered a fence and would be exempt if it were kept at 6'.

Mr. Fernandez stated that the wall is intended for privacy but would agree to either step it back to 6' within the set backs.

Commissioner Harle supported the project because of the smallness of the lot and that the prevailing setbacks were 5' and this is just a continuation of the lines. Also interior traffic would be a problem if the addition were placed elsewhere. If the wall/fence were modified to 6' within the setbacks it would not have to be approved by the Commission.

Commissioner Julin concurred with Commissioner Harle and added that the protection of a heritage tree was another special circumstance.

Commissioner Hayes added that there was no detrimental affect on the neighborhood, and that a dilapidated building will be removed that is closer to the setbacks.

Commissioner Sias concurred with his colleagues and added that to scale down the design or reconfigure it would create a detrimental impact on the surrounding neighbors.

Chairman Kroot said that more area was being removed in the setback than was being added with this addition. He could not support the variance for the 8' wall.

M/S Harle/Julin to approve a portion of V-9222 - Rusty Driscoll and Frances McCormack, 25 San Francisco Blvd., A/P 6-031-04, a 1'3" north sideyard variance to construct a first story addition within 6'9" of the north side property line with a 1' roof overhang;

and to deny a 4'6" south sideyard variance to construct a 1' wide stucco wall extension of the proposed addition (to serve as a patio fence) up to 8' in height above grade within 3'6" of the south side property line, on property located within the R-1 Zoning District.

Reasons for approval are: 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. Because of the location of the redwood tree and the recommendation of an arborist that indicates that construction should be no closer than the proposed 8.5' to the tree; and the removal of a portion of the dwelling in the rear which encroached more than the proposed addition; and the proposed addition, if configured differently on the lot could be considered a detriment to the neighbors in that it takes away privacy and views; and that the interior circulation of the house would be compromised. 2) 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. This project would not be considered a detriment to the neighbors, and in fact the neighbors approve of the addition. **Conditions of approval are that: 1) the addition is built according to plans dated Received by the Town of San Anselmo on May 8, 1992.**

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

4. **V-9224 - Glen Douglas, 26 Austin, A/P 7-262-11**, a variance to construct a 15' long dormer 6'5" from the side property line, on property located within the R-1 Zoning District.

The applicant was present.

Mr. Washington presented the staff report. Ms. Chaney noted that by pulling the dormer back it would allow for the same space, just a reconfiguration of space. It would also look aesthetically

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better because it would look like a true dormer.

Mr. Douglas stated that there are two bedroom on the second floor and felt there was a need to add a bathroom. He stated that the house next door to him was three stories and his addition would be screened by trees. He stated that the San Francisco Seminary owned the property next door and they had no objection, nor did the tenants. If the dormer were moved farther back the plumbing would have to run down the face of the house, which he did not think was aesthetically pleasing. Also, the rooms would have to be made smaller.

Chairman Kroot asked if Mr. Douglas looked into the possibility of making the dormer longer and thinner. He also noted that the height of the ceiling was 6'2" which he did not think met Code. Ms. Chaney read the UBC to the Commission that stipulates that bathroom ceilings must be no less than 7'.

Commissioner Julin felt that the house at Number 28 Austin creates the closeness at the second level and she would like to see the applicant take the project back for redesign because she was unable to make the required findings for approval.

Commissioner's Hayes and Sias agreed that the findings for approval could not be made. Sias noted that it looked like some plumbing already exists on the outside of the house.

Commissioner Harle felt that the setbacks could be met.

Chairman Kroot stated that this was such a minor variance, less than 20 square feet but by moving the dormer back, allowing for the 7' height and perhaps install the plumbing up the side of the house and tucking it under the roof rafters in into the bathroom would work.

Mr. Douglas felt his plan was more pleasing than the proposal by staff but was willing to ask for a continuance to think about the comments of the Commission.

M/S Hayes/Harle, to continue V-9224 - Glen Douglas, 26 Austin, A/P 7-262-11, a variance to construct a 15' long dormer 6'5" from the side property line, on property located within the R-1 Zoning District. This is continued to the meeting of August 3, 1992. Motion unanimously passed.

At this time Chairman Kroot wished to abstain from the next two items, therefore he turned the gavel over to Commissioner Julin and stepped down.

5. **DR-9212 - Norman and Sandra Charles, 25 South Oak**, A/P 7-192-10, design review to demolish an existing single residence and construct a new single family residence, on property located within the R-1 Zoning District (above the 150 mean sea level elevation).

The applicants were present.

Mr. Washington presented the staff report and added that the applicant has provided a revised landscaping plan that proposes to plant six trees in the rear corner of the property to act as a screen for the house. He also presented photographs taken at the site as well as a copy of an arborists report that was just received today.

Ms. Chaney explained that the sub underfloor will not exceed 8'x10' and therefore will not be included in the calculations.

Commissioner Julin asked if drainage issues had been discussed. Mr. Washington indicated that the Public Works Director had no particular comment on drainage.

Mr. Charles stated that he and his family just purchased this property and do not currently live there. The house is in disrepair and they intend to demolish the house. The house is currently on a septic system and their intent is to hook up to the Sanitary District. With regard to Recommendation No. 3, he suggested modified wording that states "Once the Sanitary District accepts his proposal and it is funded, the building permit can be issued". The drainage issues will be addressed during the building stage by engineers. With regard to repaving of the road, he estimated the cost to be in the neighborhood of \$4,500 and wondered why he is required to do this. The house he is demolishing is a single family residence and he is only rebuilding, the use will be no more intense and he did not think he would be required to repave if he was just remodeling. He is only asking for equal treatment.

Ms. Chaney stated that typically sewer work is in place prior to issuance of a building permit but she is willing to consider the wording of the applicant.

Arthur Silverman, 450 Laurel, agreed that a portion of Oak Avenue is in need of repair but felt it was up to all the property owners to share the cost. He did not object to this proposal.

Ted Posthuma, 379 Oak Avenue, was concerned about the pitch of the roof and the size of the house. He was concerned about the visual impact of the project. He also stated that with the

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addition of this house, and other building further up Oak Avenue, the turnaround by the eucalyptus by his house should be addressed because of the unsafe conditions.

Commissioner Hayes wondered why it was necessary to place the house in the location proposed. He was very concerned about the removal of so many trees.

Mr. Charles stated that his intent was to create a flat area for a yard on the south side of the property for his children. His lot is triangular in shape and to meet all the setbacks and it seemed necessary to remove the trees. In addition, many of the trees are in bad shape and need to be removed. He was also concerned about fire hazard, not wanting trees too close to the house. He stated that he is proposing to replant 5 gallon trees.

Commissioner Hayes stated that he was very concerned about the removal of the trees and in this case he thought it might be preferable to save the bay cluster and look at the possibility of a variance.

Ms. Chaney noted that 5 gallon trees will reach about 12' in 5 years.

Commissioner Sias concurred with Commissioner Hayes. He also thought it might be possible to accommodate a play area by shifting the house over and up and only remove the privet and heather tree. He would like to see a design that is sensitive to the views across the valley. He did not think the size of the house was at issue.

Commissioner Harle did not have serious problems with the design but concurred about the tree.

Commissioner Julin suggested that the applicant look into resiting the house to preserve the trees.

Mr. Charles did not think it would be possible to move the house because the length of the driveway now is right at 20' and to move closer would not allow for adequate parking. He said that he felt the proposed design was the best possible design for the site.

Commissioner Harle noted that adequate parking is of great concern to him.

Commissioner Hayes stated that safety is of primary concern.

Mr. Charles stated that he could prepare sitings for the Commission to show that his proposal is the best.

Commissioner Sias and Hayes stressed that although they thought a variance might be preferable to the removal of trees, they were not committing to a variance. Adequate parking and traffic safety were also important issues.

M/S Hayes/Sias, to continue DR-9212 - Norman and Sandra Charles, 25 South Oak, A/P 7-192-10, design review to demolish an existing single residence and construct a new single family residence, on property located within the R-1 Zoning District (above the 150 mean sea level elevation). This is continued to the meeting of August 3, 1992. Motion carried with Kroot abstaining.

6. DR-9213/V-9223 - Ralph and Emily Simon, 165 Crescent Road, A/P 7-171-44,
1) a variance to exceed the 5,000 square foot maximum size of a dwelling from 5,945 sq. ft. (existing) to 6,396 sq. ft. (proposed); 2) a variance to add a third story over a portion of the house where only two stories are permitted; 3) design review to construct dwelling and deck additions, on property located within the R-1C Zoning District (above the 150 mean sea level elevation).

The applicants and Jeff Kroot their Architect, were present.

Ms. Chaney presented the staff report.

Mr. Simon felt that his project was necessary for the safety of his twin two year olds. They want to add a bedroom next to the master bedroom so the children can be close. They also stated the solarium is necessary for the children to be used as a play area by the kitchen. The additions are small in comparison to the house and will not be viewed by anyone because of the extensive foliage. The house is unique in that it was one of the original farm houses that was built over one hundred years ago. Although the house is unique he felt the original design and layout of the rooms were awkward and thus the need for the solarium and bedroom additions. He was very much interested in maintaining the character of the house.

Delia Brinton, 175 Crescent Road, and Arthur Silverman, 450 Laurel, were in support of the project.

Helen Broyles, stated that she once owned the property and the house is very secluded. She felt the addition was very tastefully done and would compliment the house. She also stated that

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she was always under the impression that the property was really two parcels.

Jack Daly, 145 Crescent, stated that the size of the lot and location of the addition would be able to absorb the very small addition.

Commissioner Sias stated that this addition was quite beautiful and he agreed that it probably won't be viewed by anyone. He supported the idea that the owners are retaining the historic value of the house and understood the need to have the children near the parents but he did not feel that there were special circumstances that would allow a variance of the 5,000 square foot limit. He did support the deck/porch entry plan but could not support any addition that would create a variance.

Commissioner Harle stated that there was no question about the beautiful design and agreed that there was no detriment but he was not able to make the special circumstances for the variance to exceed the square footage.

Commissioner Hayes concurred with his colleagues. He regretted the fact that the project was so beautiful and the impact would not be a detriment to anyone but the revised Zoning Ordinance adopted in 1991 was very clear that the maximum square footage allowed would not exceed 5,000 square feet.

Commissioner Sias wondered if the property really was two separate lots, would the Commission be able to calculate both lots and thereby increase the amount from 5,000 square feet.

Mrs. Simon felt that a special circumstance for approval of her addition would be for the safety of her children. She also stated that the entire addition only amounts to approximately 216 square feet.

Commissioner Sias stated that the intent of the Ordinance was to make sure there was adequate screening. This parcel is over three acres and the addition will not be visible by anyone. He felt that there was no recourse but to deny the project and if there is an appeal, the Council can discuss this project and perhaps discuss the possibility of modifying the Ordinance. The other Commissioners concurred with Commissioner Sias's comments.

M/S Sias/Hayes to deny a portion of DR-9213/V-9223 - Ralph and Emily Simon, 165 Crescent Road, A/P 7-171-44, 1) a variance to exceed the 5,000 square foot maximum size of a dwelling from 5,945 sq. ft. (existing) to 6,396 sq. ft. (proposed); 2) a variance to add a third story over a portion of the house where only two stories are permitted;

And to approve the design review to request for a new porch, deck, window additions, and other similar alterations that do not alter the "adjusted floor area". This is based on plans dated Received by the Town of San Anselmo on May 14, 1992.

Motion carried, with Kroot abstaining. Audience advised of the ten day appeal period.

D. GENERAL DISCUSSION

E. ADJOURNMENT

The regular meeting of the Planning Commission was adjourned at 12:30 p.m. to the next meeting on July 27, 1992.

BARBARA CHAMBERS