

TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF MAY 18, 1992

The regular meeting of the San Anselmo Planning Commission meeting was convened at 8:00 p.m. by Chairman Kroot with all Commissioner's present. Staff present was Planning Director Ann Chaney.

C. PUBLIC HEARINGS - CONTINUED

1. **V- 9210 - Dean and Diana Randle, 13-A Smith Lane, A/P 6-251-20**, a 10' street sideyard variance, a 2' east sideyard variance, and a 2' rearyard variance to construct a second story living addition within 2' of the street side property line, within 6' of the east side property line, and within 18' of the rear property line, with a 2' roof overhang; and 2) a 2' street sideyard variance to construct a new enlarged covered front porch within 10' of the street side property line; and 3) a parking variance to allow substandard parking to remain, on property located within the R-1 Zoning District. CONTINUED TO THE MEETING OF JUNE 1, 1992

2. **V-9208 - John Oldfather and Holly Ford, 158 Pine Street, A/P 7-251-31**, 1) a 4'8" side yard variance; and 2) a 1' front yard variance to construct a second floor addition; and 3) a two car parking variance to locate parking within the front and side yards, on property located within the R-1 Zoning District. CONTINUED TO THE MEETING OF JUNE 15, 1992

3. **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. CONTINUED TO THE MEETING OF JULY 6, 1992

4. **V-9213 - Harry Kraft, 214 The Alameda, A/P 5-054-07**, a 20' front yard and 8' side yard variance to allow a 7'3" existing fence and trellis structure to remain within 0' of the front and side property line, on property located in the R-1 Zoning District. AFTER-THE-FACT. - CONTINUED TO THE MEETING OF JUNE 15, 1992

5. **DR-9208 - Robert and Vicki Gerstenkorn, 241 Oak Springs, A/P 5-293-16**, Design Review to construct an addition, on property located within the R-1 Zoning District (above 150 feet mean sea level). CONTINUED TO THE MEETING OF JUNE 1, 1992

6. **DR-9207/V-9214 - Terry O'Neil for the Velesco's, 115 Woodside Drive, A/P 5-272-08**, Design Review to replace an existing deck and retaining wall; and 2) a 20' rear yard and 4'6" side yard variance to relocate the retaining wall within 0' of the rear property line and 3'6" of the side property, on property located within the R-1 Zoning District (above 150 feet mean sea level). CONTINUED TO THE MEETING OF JUNE 1, 1992.

D. PUBLIC HEARINGS

1. **V-9206/DR-9205 - William Johnson, 100 Chipman Place, A/P 7-271-21**, a reconsideration of a design review and variance request in order to construct a new 4,607.5 square foot single family residence on an existing parcel. This square footage is "adjusted" per Town Ordinance to consider portions of the garage and second unit. A dwelling was formerly located on this property but was destroyed by fire.

Director Chaney presented the staff report. She also distributed a letter from the owner of 155 Oak Avenue that had concerns about the project.

Commissioner Sias questioned 1) the location of the two trees to be removed; 2) where the reduction in square footage was from the previously approved planning application; 3) what recourse the Town would have if the Surety bond of \$2,500 was not sufficient to cover any roadway damage; and 4) how the unconditioned space will be filled in to reduce the amount of potential living space from 7 1/2 feet.

Commissioner Harle asked about the safety of the foundation that currently remains from the house that was destroyed by fire.

Commissioner Julin stated that the concerns of the owner of 155 Oak should be addressed regarding fire safety, use of the second unit, location of parking for the second unit, and safety pruning of eucalyptus tress.

This item was continued to the end of the agenda because the applicant was not present to respond to the questions. The Commission asked for a 5 minute break to allow staff time to call the applicant to see if he was planning to attend the hearing.

The Public Hearing was reconvened at 8:15 p.m.

2. **V-9212 - Judith Leedy, 5 Bungalow, A/P 6-164-04**, 1) a 8'9" front yard variance and a 7'9" street side yard variance to construct an addition within 11'3" of the front property line and 4'3" of the side property; and 2) a variance to increase lot coverage from 48% to 50%; on

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property located within the R-1 Zoning District.

Director Chaney presented the staff report.

The applicant stated that they were just trying to get a little additional living area in a small house. By filling in, the house looked flat so they recessed the windows with colors and shading were able to get a nice look.

Commissioner Harle supported the application. He stated that no angle that was filled in would create additional bulk to the house and yet an increase of 60 square feet to a small house could mean a substantial increase to the homeowner. He added that the plans also show the placement of the surrounding neighbors and he felt that was very helpful and would like to see that made a condition on all future plans.

Commissioner Julin supported the application. She supported the lot coverage variance because of the reasons stated in the staff report and stated that this was only a 2% increase to a very small lot.

Commissioner Sias was unable to make the required findings for lot coverage. He was afraid this might set precedence in an area of small lots and that future additions on Bungalow would "pop out".

Chairman Kroot could support the application because this was really only a notch filler and a very small addition.

M/S Julin/Harle to support V-9212-Judith Leedy, 5 Bungalow, A/P 6-164-04, 1) a 8'9" front yard variance and a 7'9" street side yard variance to construct an addition within 11'3" of the front property line and 4'3" of the side property; and 2) a variance to increase lot coverage from 48% to 50%; on property located within the R-1 Zoning District. Approval is based on the following reasons:

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; and This lot at 5 Bungalow Avenue is 3,555 square feet which is substantially smaller than most of the lots in this general vicinity and within the town. Because of this special circumstance, staff is able to make the findings for a front yard, street side yard, and lot coverage variance to add 115 square feet of living area of which 55 square feet is already covered by a roof. 2. 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. The granting of these variances should not have an adverse affect on the neighboring house at 70 Sequoia Drive in that the two houses are separated by approximately 16 feet as the result of the neighbor's existing driveway. Also, this addition will be a single story and only 60 square feet in size. The street side yard variance and lot coverage increase are also small in scale and should not adversely impact other neighbors.

Ayes: Julin, Harle, Kroot

Noes: Sias

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

Mr. Johnson was now present and therefore the Variance and Design Review application for 100 Chipman was now reopened.

Mr. Johnson addressed the questions by the Commission. He stated that his engineer opted to modify the plan so that the distance between the bottom of the main floor and the understory sub-floor will have a head room of 6.25' and therefore not be included in the overall square footage. He had no intention of using that area as living space and added that to convert to living area he would have to obtain a building permit and get all the necessary Town approvals. Two trees were scheduled to be removed. A 20" oak tree will be removed to allow for the construction of the garage and another oak near the bay tree that was partially burned in the fire and considered unsafe. He also will safety prune the two eucalyptus trees closest to his neighbor at 155 Oak Avenue.

Bill Hendrickson, 90 Chipman Place, felt the addition would be an asset to the neighborhood. He did question the amount of the surety bond because he said the road was not Town maintained and therefore the property owners along Chipman are responsible for any maintenance. There is a shed currently on the property that Mr. Johnson said will be removed but he would like to see that added as a condition. He also questioned the validity of the second unit. He was told by staff when this house went into foreclosure after the fire that the registered

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second unit would no longer be legal. He was just recently informed that the Town Attorney ruled that because the main dwelling only was destroyed by fire, the second unit could remain. He would like clarification on this issue.

Directory Chaney responded to the questions that had been posed. She clarified that when the Commission initially approved this application, one of the conditions was that a surety bond, in an amount determined by the Director of Public Works, should be obtained prior to the issuance of the building permit. She suggested using that language again rather than stating a specific dollar amount now. She thought it might be a good idea for the Commission to add the condition about the removal of the shed. As far as the second unit questions, she would like to see if there was any documentation in the building file that states the Town Attorney's ruling that the second unit remains as a registered unit.

Michael Leary, 51 Chipman, was pleased with the plans for the house and improvements but wondered about the surety for protection of the roadway. He also wanted clarification on the second unit as well as the parking for the tenants of the second unit and access to the unit. He also wanted some screening to soften the retaining wall.

Kathleen Shatter, 155 Oak Avenue, raised the following issues regarding the development of 100 Chipman. 1) The rental unit was very close to her home and would like clarification on whether or not this unit was to be rented, and if so, what is the limit for occupancy of the second unit. In the past, noise has been a factor and she wanted to know what her rights were in this matter. 2) There are large eucalyptus trees that overhang her property and these trees have been deemed a real and potential danger by two arborists. She is requesting that in addition to the two trees Mr. Johnson is intending to prune, the additional trees in question also be safety pruned. 3) She was concerned about fire hazard on this site because of the broom, weeds and debris currently on this property. She stated that during an inspection by the Fire Department, they identified the area as a fire hazard. She would like the area cleared of the growth and debris that is within a certain number of feet of her property.

Maryann Cowperswaithe, 144 Oak Avenue, did not have any objection to the project but if an additional ingress and egress is proposed for the second unit she wanted input in that.

Mr. Johnson stated that he is not intending to change the entrance of the second unit. He also stated that staff clearly indicated to him that the second unit can remain. With regard to the road bond, he can video the road prior to start of the project and would be willing to repair any damage that he incurred to the road. He would even be willing to take part with the rest of the neighbors in resurfacing the roadway after completion of his house. With regard to screening of the retaining walls, he is proposing to grow a trailing vine over the posts.

Director Chaney read the Noise Ordinance, with acceptable hours of construction operation. She stated that after looking at the building file she was not able to substantiate the comments that the Town Attorney allowed for the continuance of the second unit but comments on the Resale Report that was done in 1991 state that because the second unit has been abandoned for more than six months, a use permit will have to be obtained prior to occupancy.

Commissioner Harle was in support of the project, adding the condition about removal of the shed and removing the dollar amount of the surety bond but he still felt there were questions relative to the status of the second unit.

Commissioner Julin was able to support the project with the additional conditions as specified by Commissioner Harle but did not think the second unit was really an issue. She thought the Town Attorney ruled that the second unit runs with the land.

Director Chaney explained that this is a registered second unit which was grandfathered in and the only second units that run with the land are those issued by use permit. She also stated that if the second unit was not allowed, the structure could remain as long as the cooking facilities were removed.

Commissioner Sias felt that it would be hard for him to vote on the application until all questions regarding this property are answered. Specifically, what is the status of the second unit? Where will parking be for the second unit? What means of access will there be for the second unit? He also agreed that conditions should be modified to include the removal of the shed, and wording for the surety bond should state that the bond should include repair for both public and private roads and the dollar amount to be determined by the Director of Public Works. He did not think there was a need to include the hours of operation because that is part of the Town Ordinance and is just a matter of enforcement.

Chairman Kroot felt he could approve of the project tonight without disposition of the second unit. He stated that application before the Commission was a design review of a new house and a variance. If a Use Permit is necessary for the second unit, then it will come before the Commission at a future date. If the unit is legal, it is a non issue.

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Commissioner Harle stated that there were still some unsolved questions that the neighbors had about the second unit and thought they should be responded to prior to approval of the project. He also felt that design review encompassed the entire property and that included the second unit. He therefore felt the item should be continued to allow staff time to respond to the unresolved issues.

Mr. Johnson stated that the preferred parking for the second unit would be off of Chipman Place and he would create a pedestrian walk way of railroad ties, to the second unit.

Commissioner Sias wanted clarification about the pedestrian walkway, and assurance that it would not interfere with the neighboring properties.

Director Chaney felt it would be in the best interest to continue this item until June 1, 1992, to allow staff time to rewrite the conditions, and respond to the second unit questions. The item could be brought back on consent if that was the Commission's desire.

M/S Sias/Julin to continue to the meeting of June 1, 1992. This will allow staff to determine the trees that need to be safety trimmed and the status of the second unit. Allow the applicant time to prepare a plan for parking of cars for the second unit as well as the pedestrian path for access to the unit. Conditions in staff report are to be modified to include a cash surety bond for both public and private roads, in an amount to be determined by the Director of Public Works, and the removal of the shed.

Motion unanimously passed.