

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES FOR THE MEETING OF SEPTEMBER 7, 1993**

The special Planning Commission meeting was convened in the Council Chamber by Chairman Mihaly at 8:00 p.m.. Staff present was Planning Director Ann Chaney, Planning Consultant Delvin Washington and Planner Lisa Wight.

A. CALL TO ORDER

Commissioners present: Julin, Israel, Kroot, Mihaly
Commissioners absent: Harle, Sias Hayes

B. CONSENT

Ms. Chaney recommended that Item C3 and C4 from the Public Hearing be placed on Consent if there was no objection from the Commission or the audience because there has been no opposition from the public and staff has recommended approval.

The Commission was in support of placing the items on Consent. Commissioner Kroot commented that although the proposal for the addition at 73 Kensington was a variance and not a design review, he wished that the house looked more like the other houses in the neighborhood. Commissioner Israel echoed Kroots comments. There were no comments from the audience regarding placing the two items on consent..

1. **Minutes - July 19, 1993
August 16, 1993**

C3. **V-9327 - Carolyn Warner, 73 Kensington Road, A/P 7-262-04, 1) 2' north and south side yard variances to construct a new two story dwelling within 6' of the north and south property lines; and 2) a 2' south side yard variance to construct a garage within 6' of the south side property lines (Code required setback for house and garage is 8' from the side property lines), on property located within the R-1 Zoning District.**

C4. **DR-9319 - Wayne and May Lee, 40 Monterey, A/P 6-013-18, a design review to construct a 725 square foot, two story addition on an existing single family residence, on property located within the R-1 Zoning District (Above 150' mean sea level).**

M/S Julin, Israel, to approve the consent agenda.

Conditions of approval are as follows:

73 Kensington Road:

1. That the building permits be obtained and the work begun within one year of this approval or the design review will be considered null and void. The applicant may consider a one time only one-year extension by submitting a written request to the Planning Director prior to the one year expiration; and 2. This approval is based on the plans received by the Town on July 23, 1993.

40 Monterey:

1. That the colors and materials be as described in the staff report; 2. That the building permits be obtained and the work begun within one year of this approval or the design review will be considered null and void. The applicant may consider a one time only one-year extension by submitting a written request to the Planning Director prior to the one year expiration; and 3. This approval is based on the plans received by the Town on July 29, 1993.

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

C. PUBLIC HEARINGS

1. **NU-9302/DR-9120 - Th.F. Posthuma, 379 Oak Avenue, A/P 7-241-61, 1) a use permit to establish a second unit; and 2) an amendment to an existing design review approval to allow the construction of a new detached garage and to construct a two story addition, on property located within the R-1 Zoning District.**

The applicant and his Alex Kaplin his Architect, were present.

Mr. Washington presented the staff report. He noted that this application must be continued because the noticing was not clearly noticed. Therefore he suggested that the Commission take public testimony and if the Commission desires, the decision can be made at the next meeting.

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Commissioner Kroot wondered why this application was before the Commission. He thought it was already determined by the Council that a second unit was prohibited and that the house size could not be increased.

Ms. Chaney stated that the applicant has also asked the same question. However, staff felt that the Planning Commission should review the design of this project and then submit it to Council their review.

Chairman Mihaly asked if the Planning Commission has the right to forward this application to the Town Council at this meeting without hearing the item and without taking public testimony. Ms. Chaney stated that it is her understanding the Commission has the right to make comments on design and then forward to the Town Council.

Commissioner Israel stated that he would feel uncomfortable making comments on this at this time until the Town Council has had an opportunity to review the application first. He was not part of the original hearings and at this time he felt uncomfortable commenting on the project, although he would like very much to discuss the design criteria at a future date after the Council has reviewed the project. He also felt that it would be difficult to look at this project in a favorable way because the Council did not want to increase the house size.

Commissioner Julin stated that the application should go directly to the Town Council and they should first view the project because there were lengthy discussions regarding this project.

Mr. Posthuma stated that the reason this application is before the commission is because a second unit is now available. He felt that this should be heard tonight because the normal process is to hear a project at the Planning Commission first. He has integrated the second unit within the main dwelling as suggested by staff and felt strongly that the application should be heard.

Chairman Mihaly thought that the applicant had a right to a public hearing but perhaps the comments could be condensed.

Ms. Chaney stated that the 180 days is going to be up at the end of this month for this application. If the applicant wished to ask for an 180 day extension that would allow for additional time, otherwise a decision has to be made by the meeting of September 20, 1993.

Mr. Kaplin agreed that the Commission should hear the project and make an independent decision. Mr. Posthuma is entitled to a second unit within the neighborhood. His lot is large enough to accommodate the second unit as well. There are also other properties in the neighborhood that are larger than that proposed by his client. The house is really shielded, and the addition maintains the character of the neighborhood. Only a very small portion of the house will be seen. The vegetation is mature and the location of the garage is the most logical place on the lot. Regarding the design of the house, it is a very simple block addition.

Mr. Posthuma was asked to outline the original house when he purchased it. He also passed a photograph of his property around to the Planning Commission.

Mary Lee Hamilton, 75 Kensington, did not understand why the Commission could not just look at this application as a new project without having to relive the past applications.

Chairman Mihaly thanked Ms. Hamilton for her comments and noted that if she were present for the project at 73 Kensington, it had been placed on Consent and approved. Ms. Hamilton was very upset by this and stated that she did not arrive until after 8:00 p.m. and did want to comment on the project. Ms. Chaney stated that staff will attempt to waive the appeal fee if the applicant wanted to appeal because although it was legal, the item was placed on Consent at the beginning of the meeting.

Public Testimony

Wm Hendrickson, 90 Chipman Place, stated that a year ago the applicant could not apply for a second unit because a second unit was not available. Now that one is, the application should go forward.

Kathy Sanders, 310 Redwood Road, wanted to stress that the original decision made by the Council should remain in tact. Many hours were spent on this project and the conditions should be taken seriously on all projects.

When asked about visibility of the project by Chairman Mihaly, she stated that the eucalyptus trees are very tall and did not screen below. Typically, in this area additions should be small, one story, with not too much glazing.

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Mark Kertz, representing Miranda Leonard, 395 Oak Avenue, stated that a letter dated September 7, 1993 from his office should be made part of the record.

Dixie Ruud, 367 Oak Avenue, does not feel that this addition will be compatible with the neighborhood.

Mr. Kaplin understood that sometimes change is difficult to accept although Mr. Posthuma application is completely legal.

Mr. Posthuma stated that the eucalyptus trees on his property clearly shield from the ground, unlike the eucalyptus trees that are on Oak Avenue. The second story is also shielded by the eucalyptus trees and those trees on his property cannot be viewed from the Hub.

Commissioner Israel asked why Mr. Posthuma is proposing to increase the size of the house and disregard the length issue rather than build behind. Posthuma stated that his original proposal was for a separate second unit, but staff rejected this and therefore asked that the second unit be integral as part of the existing house. Mr. Posthuma stated that he was losing some of his house by putting in the second unit and therefore is asking for a little more in the length. He stated that his addition is really shielded from the street and the addition is very modest. Also, the garage will not be viewed. His site is very windy and therefore an enclosed garage is necessary rather than a carport. The reason for a larger bedroom and living room is that he is given up two bedrooms for the second unit, and because of the rearrangement of the interior space he would like what he has proposed. He stated that the master bedroom may be large but it may have a sitting room within the bedroom.

Public Hearing closed.

Commissioner Kroot felt that this application should go to the Town Council. His recollection was that no second unit was allowed at the very beginning stages and that the design was based on the fact that the house not look like two units. He felt it would be difficult discussing the second unit because of the strong reaction of the Town Council regarding design, house size. He is concerned about the bulk of the house and the enlargement of the house because of the long hallway. However, if the Town Council stated a second unit was ok, he would like to review the roof, and the location of the garage, but will hold off on further comments until the town Council has reviewed the project.

Commissioner Julin stated that she cannot support a garage and a second unit. She also has concerns about adding another household in an area that is very vulnerable, in light of the fire in the Oakland hills. A fire hazard overlay zone should perhaps have a serious review. Therefore, in her opinion it is also a safety issue. The length of the house was so very important to the Town Council that it is almost defying the Town Councils decision to make any changes. She also wondered how frequently an applicant can come before the Commission, because it give a very fragmented application.

Commissioner Israel stated that this is highly protected from many view corridors but he was not present for past hearings. He stated that he can view the second unit on this site but this proposal is not it. He has strong objections to the present parking on a beautiful knoll top. He would like to better understand the Commissions feeling about the length of the house prior to the town Council decision, and also did not think the Commission could lift the deed restriction, rather that the Town Council would have to do that. The house would have to be configured differently, and did not think this proposal was very well integrated into the house on the lot.

Chairman Mihaly stated that this hearing will be continued because of the noticing, therefore the application will have to be renoticed. With regard to the proposal, the application is really for a second unit. Second units are very important because of the housing element requirement and he takes this very seriously. The Town Council recognizes that size is very important on visible sites, and staff has stated that this addition is not viable. He suggested that the applicant has met all the legal requirements, but would continue the garage matter for design, and would continue the application for additional space. By granting the second unit hearing for design review and have the applicant continue the ABA deadline, additional information would be required when the matter came back to the Commission, after the Town Council heard the application. His inclination was to grant the addition to the first floor because it is not visible. He would like to see pictures and any other documentation that proves there is not a visibility issue, or proof that there is.

Commissioner Julin will not be able to support a second unit here at any time because of the reasons already stated. Perhaps the Fire Department could give input on the roads more suitable for fire access.

Mr. Posthuma stated he would like the Council hear this prior to hearing this item again at the Planning Commission.

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Ms. Chaney stated that her understanding based on her discussion with the Town Attorney is that the matter can go directly to the Town Council.

M/S Julin/Kroot, to continue NU-9302/DR-9120 - Th.F. Posthuma, 379 Oak Avenue, A/P 7-241-61, 1) a use permit to establish a second unit; and 2) an amendment to an existing design review approval to allow the construction of a new detached garage and to construct a two story addition, on property located within the R-1 Zoning District. This is continued for the purpose of legal noticing. This is continued to the meeting of September 20, 1993.

Motion unanimously passed.

2. **DR-9314 - Andrea Moyer of 43 Tomahawk Drive representing the Quarry Mountain neighborhood**, A/P 177-220-66 thru 68, 177-250-57 thru 65, a design review request to add new exterior color options to the approved color palette for homes on Quarry Mountain, on property located within the R-1-H Zoning District.

The applicant was present.

Ms. Chaney presented the staff report. She noted that as it turns out, the applicant is the only person who wants to change the approved colors at this time. She stated that the applicant may be willing to go with one of the base colors of gray that was previously approved, but with a wine color of trim that is not on the approved list. She stated that staff does not have a recommendation at this point but the intent has been that the colors blend with the environment. She noted that the color issue during the design review process during the original discussions for the subdivision was very controversial.

Commissioner Kroot stated that the Commission previously said they would be willing to discuss the colors if a large color sample was submitted.

Mrs. Moyer stated that she spoke with the architect on the project and he viewed the approved color palate as earth tones. She stated that they now look like tract houses, and do not accent the architectural features. She understood that they should blend into the environment but wanted the houses to have individuality. She would like to have the Commission expand the approved colors which would allow a little distinction between the houses. Mrs. Moyer stated that she would prepare a sample:

Jonathan Braun 479 Scenie, presented a summary of the Quarry Mountain Master Plan. The homes still seem to be very visible and it would be very irresponsible to move beyond the principals that have previously been approved unless a large sample was submitted. There may be some room for flexibility, but not with very small paint chips.

Mrs. Moyer stated that they have planted several trees and additional landscaping to screen the houses. She stated that they want to be a part of the community but it is necessary now for them to paint their homes.

Commissioner Julin stated that the color palate was fully aired at the time of development. She would be reluctant to open the color palate because the community must be able to place some reliance on the decision that was made by the Town.

Commissioner Israel stated that he is very aware of the impact of the homes at Quarry Mountain. He agreed that there is public trust that the Commission must be aware of, and wanted to see panels on-site for the body colors to get a better idea. With regard to the trim, he never got a sense during the public hearings on the colors that they would never be open for change. He had no objection to the redwood trim that is being proposed by the applicant. However, he did not think there was motivation to handling several colors at one time. He would be happy to entertain additional colors on site if there was a serious interest by the home owners of Quarry Mountain. He stated that if the homeowners association would like to propose a serious of colors, or if homeowners would like to do a review on a case by case basis, he would be willing to review colors. But it should be done very carefully.

Commissioner Kroot concur with Commissioner Israel. He would support a continuance to allow the applicant time to prepare a sample, about 4' by 4', up on site for any exterior house color, or a four foot section of trim. He would like to see each owner come in on a case by case as they desire to repaint.

Commissioner Julin wondered if this would require an amendment to the CC&R'S.

Ms. Chaney stated that if there is a change to the color palette, she would like to see a new set of colors for both the trim and body color rather than hear each item on a case by case basis. Commissioner Israel stated that by choosing a few different colors would not prohibit people

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from still coming in a requesting additional colors that are not approved on the approved palate. Hence, the case by case basis might be more expedient.

Chairman Mihaly concurred that the applicant should paint the trim color for the Commission to view on-site, and in the meantime he would like staff to research the CC&R's and the history behind the approved color palate.

Commissioner Israel proposed putting the trim swatch directly on the house.

M/S Kroot, Israel, to continue DR-9314 - Andrea Moyer of 43 Tomahawk Drive representing the Quarry Mountain neighborhood, A/P 177-220-66 thru 68, 177-250-57 thru 65, a design review request to add new exterior color options to the approved color palette for homes on Quarry Mountain, on property located within the R-1-H Zoning District. This is continued to the meeting of October 4, 1993 to allow the applicant time to paint a 4' section on the trim of her house, with the understanding that the Commission could view the color on site.

Motion unanimously passed.

5. **V-9328/DR-9320 - Edmund Coyne, 25 Canyon Road**, A/P 7-064-14, a design review and variance to construct a new single family residence 15'6" from the front property line (20' required), and to remove six (6) required trees having trunks between 14" and 24" in diameter, on property located within the R-1 Zoning District (Above 150' mean sea level).

The applicant was present.

Mr. Washington presented the staff report as well as photographs of the site.

Commissioner Julin asked if staff had any suggestions to siting without removing the redwood trees. Mr. Washington stated that moving the house back would further impact the visibility and trees would still have to be removed. The site is very difficult and there is a substantial amount of redwood trees. It would be very difficult to construct a house on this lot without removing some trees.

Mr. Huerto-Royo stated that he concurs with the staff recommendation by moving the house to the side, two trees can be saved. He stated a portion of the lot is fill, and a few trees are leaning quite substantially. Therefore, those trees would be removed anyway. He also mentioned that the elevations make the house seem taller than what they actually will be.

Jonathan Braun, 479 Scenic, stated that it is unfortunate that this lot can be built on because of the past sliding history, the existing tree cover and the slope of the lot. Because this is apparently a legal lot there should be many mitigation that should be looked at. He wondered why there hasn't been an arborist report presented because the redwood have very shallow roots. Also, the timing of the construction is very important. The retaining wall fronting this property was constructed in 1956 because of sliding. Therefore he would not like to see any construction take place during the winter. The giant redwood trees present a real asset to the area and there should be a mitigation fee given by the applicant to the Town to have other trees planted elsewhere in the town.

Rory Phoenix, 21 Canyon, stated that the proximity is too close to his property which is on the downslope. It will loom out and over and reduce his view both up and out. It will definitely affect his light. He was also opposed to the light color, and the bay windows will look out and onto his two decks and his privacy will be impacted. He stated that he fears for his safety because of the large house, for the terrain seems like it would be very unsafe. He is concerned about the removal of trees on the lot, the look of the canyon will change, and therefore objects to any house being built on this steep lot.

Thomas Roskopf, 20 Canyon Road, concurs with Jonathan Braun's comments. The lot is very steep and he is unsure if anything can be built on it, and the removal of redwood trees would change the character of the neighborhood.

Sandy Magid, 49 Canyon Road, has commented on this project in a letter he submitted August 20th. He added that a house was proposed in 1985 and that house was a better design with fewer variances. The current design is not radically different than that at 16 Ivy Lane. He stated that the impact of 16 Ivy Lane from his house appears to be a 5 story house as viewed from his back deck. He thought this would be the same for the neighbors. The proposal for this house will be the largest on the block. He would not like to see the character of this neighborhood changed and the Commission has an obligation to maintain that character. If a house can be built on this lot, there should be no variances required. He concurs with the mitigation about the trees but would like to see that go back into the neighborhood. Allowing a variance will dramatically affect the character of the neighborhood.

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Leona Guastavino, 16 Canyon Road, stated that there is a river that runs down this property during the rainy season. She is opposed of this project. She did not want to see a repeat of the situation at 36 Canyon.

Tom Rosskopf, 20 Canyon, stated there is a culvert across the street and the culvert is not adequate and sheets across the street to the property which is now being proposed.

Jonathan Braun stated that the drainage starts at the top of Summit Road, to the top of Scenic and into the drainage system. There is another portion that is draining from the Cary property, down.

Samathantha Franklin, 21 Canyon, wanted the country, woodsy feeling and yet the closeness to town. But now there is the proposal to build a house next to them and they just bought their house. She felt that her light and air will be impacted.

Mr. Huerto Rojo stated that construction will not be started during the winter time. It would not be economically feasible nor in their best interest. Regarding a slide, before a proposal they do detailed site conditions, there is a soils report on the site; Regarding the redwood trees, it is unfortunate that the trees are right in the middle of the property. The reason the frontyard variance is requested is because of the required parking spaces. If it were not required, no variances would be necessary. Therefore, it is the tandem space on the driveway that is creating the variance. Because of the sensitivity of being so close to the neighbor, they have no problem moving the property down, thereby creating additional space between their deck. The same topographical conditions exist on 21 Canyon as on 25 Canyon. Regarding the privacy, they will totally eliminate the windows that face the neighbor. Regarding the color selection, he would be happy to paint the exterior any color that would be better with the neighbors and the Commission. Trees that have been recommended can be sequoia if that is what the neighborhood wants. The terrain is very difficult. The only sites left in Marin County are the very difficult lots. The lot is not that small, just very steep. They would like to enjoy the same luxuries as others in the neighborhood; many have no setbacks, and are on the front property line. They would be willing to mitigate any conditions to make the project better for the neighbors.

Commissioner Israel did not think this house would be compatible with the size and design of the neighborhood. The topography is extremely difficult, and would have no problem making a front yard variance and a west side variance, but is strongly opposed to removal of redwood trees unless he can be dramatically persuaded. He does not like to see the things that are changing the neighborhood. Agrees about hydrology report, arborists report, blocking off the windows, he liked the concept of a mitigation fee, or some other contribution to the neighborhood, parking, additional trees, etc. He would like to see painted siding to blend in with the neighborhood. He did not like the notion of turning the front yard into parking. He has a problem with the bulk of this house. There are large areas under the house that could be viewed as additional space. He would like to see the house go down the site. He has viewed the water that runs down. Would like to see the garage. This type of foundation is inappropriate for this site, because of the water on this site.

Commissioner Kroot concurred with Commissioner Israel and added that he would like some indication that this is an acceptable site from the Public Works director. The area is a slide site, should have test borings from a test engineer and perhaps another outside peer review. House is too high and looming from the neighbors. He would be willing to entertain a west side variance to pull it away from 21 Canyon, and would entertain two car parking because of so little area to develop, and perhaps a car deck, not a carport or garage. The redwoods near the entry look like they can be saved. Actually, by moving this house closer to the street, would actually be a benefit because it would be less bulky.

Commissioner Julin, stated it is out of scale and is concerned about the stability. It is an environmentally sensitive site. The Town should scrutinize how the site can safely be built upon because of past history in the neighborhood.

Chairman Mihaly concurs with what has already been said. There is a property right by having a legal lot but then there is also a public safety issue. He stated that the entire design of the house should be rethought because of the site.

Commissioner Israel stated that there is value to building on in-fill sights but this is a very difficult site. Also, the construction times are very critical. He also would not like to see the 30" redwood tree saved in the area of the living room.

The consensus of the Commission is that they want all the reports during the Planning Commission review, not at the building review. Also, they would like to see the new proposed color sample at the next meeting.

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Mr. Huerto Rojo said that the hydrology test will take a lot of time and effort. It will take longer than a month and could take up to three and four months. One of the conditions to present the plans is that they have already reviewed two soils reports as well as that of the neighbors. There have been test borings already been done.

Commissioner Kroot would like to see the Public Works Director present at the next meeting.

Commissioner Israel stated that if the Public Works Director is comfortable with the Commission preceding without the hydrologic report, he is more concerned with the information in the soils report.

The Commission would like to see a tree protection plan for the next meeting.

Commissioner Julin would be interested in a preliminary study that would indicate the feasibility of the two channels and how they relate to each other. Mr. Huerto Rojo stated that has been addressed in the soils report.

M/S Kroot/Israel, to continued V-9328/DR-9320 - Edmund Coyne, 25 Canyon Road, A/P 7-064-14, a design review and variance to construct a new single family residence 15'6" from the front property line (20' required), and to remove six (6) required trees having trunks between 14" and 24" in diameter, on property located within the R-1 Zoning District (Above 150' mean sea level). This is continued to the meeting of October 18, 1993.

Motion unanimously passed.

6. **TOWN OF SAN ANSELMO** - Discussion of existing Ordinance that permits 6' high fences/walls within the front yard setback.

Because of the late hour, this item will be continued to the meeting of September 20, 1993.

D. GENERAL DISCUSSION

E. OPEN TIME FOR PUBLIC DISCUSSION

Lee Pollard, 41 Sunnyside, stated that he wanted to be part of the discussion of 73 Kensington. He would like the Commission to rethink the policy of putting items on consent during the meeting.

Regarding variances, he stated the Planning Commission should not be approving as many variances as possible. The Commission should be more selective. The Code should not be in place to allow so many variances.

Sandy Magid wanted to commend the time and energy that has been expended by the Planning Commission.

F. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

There was no discussion.

G. ADJOURNMENT TO THE MEETING OF September 20, 1993

The special meeting of the San Anselmo Planning Commission was adjourned at 12:15 a.m. to the next meeting of September 20, 1993.

BARBARA CHAMBERS