

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF MARCH 1, 1993**

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

A. CALL TO ORDER

Present: Harle, Hayes, Sias, Julin, Israel, Mihaly
Absent: Kroot

B. PUBLIC HEARING - WITHDRAWN

1. **V-9304 - Frank Godino, 203 Floribel Avenue, A/P 7-081-55, a 20' front yard variance to enclose a portion of a front porch within 0' of the front property line, on property located within the R-1 Zoning District.**

C. CONSENT

1. **Minutes - February 16, 1993**
2. **V-9309 - David Lusterman, 65 Lincoln Avenue, A/P 6-254-29, a 14' front yard variance to modify an entry way within 6' of the front property line on property located within the R-1 Zoning District.**

The Planning Director suggested adding Item E3, 566 Scenic to the Consent. There was no objection from the audience and no objection from the Commission. by consensus Item E3 was placed on Consent.

- E3. DR-9301/V-9302 - James Cressa, 566 Scenic Avenue, A/P 7-061-23, a 1) design review request to construct a 475 square foot second story addition (after-the-fact) and a 250 square foot deck to an existing residence; 2) a parking variance to allow two parking spaces to encroach within the front yard setback and into the right-of-way, where three spaces are required; and 3) a front yard variance to allow a 9' high retaining wall within 0' of the front property line, on property located within the R-1 Zoning District (above 150' mean sea level elevation).**

M/S Harle/Julin to approve consent agenda.

Conditions of approval: 65 Lincoln Avenue: 1. That applicant shall obtain all necessary development permits and conform with all adopted standards of the Building and Public Works Department. 2. The new door shall be installed according to the plans date stamped received January 13, 1993 by the Town of San Anselmo. 3. That if this development which has received discretionary approval has not begun within one year from the date of the final action, the permit shall become null and void. However, this discretionary action may be renewed by the Planning Director for a maximum period of one (1) year provided the applicant places such request in writing to the Director prior to the expiration of the discretionary action.

Conditions of Approval: 566 Scenic: 1. That the plans be constructed per elevation and site plans date stamped received October 27, 1992. That materials include wood siding stained to match the existing house with a gray composition shingle roof. 2. That garage doors be installed on the existing garage prior to final approval by the Building Department regarding the construction of the retaining wall. 3. If it the intent that the retaining wall be built in conjunction with the "addition". Therefore, the retaining wall and house addition shall be applied for, issued, and finalized as a single package. 4. That the applicant shall apply for a revocable encroachment permit with the Public Works Department to allow a retaining wall to encroach within public right-of-way. 5. That this retaining wall shall be constructed within one year from the date of the final action. This shortened construction schedule is due to the fact that the addition tot he home has already been done and the site is deficient parking. If this is not accomplished within one year, the Planning Commission should review the case at a public hearing. 6. That landscaping, including vines, shall be planted along the retaining wall to soften the visual height.

All ayes. Motion unanimously passed. audience advised of the ten day appeal period.

D. PUBLIC HEARINGS - CONTINUED

1. **Zoning Ordinance Clarification** - Request for clarification regarding the design review requirement for additions or new construction greater than 500 square feet, when it involves replacement of existing structures. **CONTINUED TO THE MEETING OF MARCH 15, 1993**
2. **PS-9201 - Tony Richards for Viking Leon, Between Forest Avenue and Vista Lane, south of Lansdale Station Park, A/P Nos. 7-021-07, 7-**

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF MARCH 1, 1993**

021-23, and 7-021-24, 1) environmental review; 2) parcel split to legalize the 1954 creation of three separate building sites, each of which is currently undeveloped. **CONTINUED TO THE MEETING OF MARCH 15, 1993**

3. **V-9240/DR-9218 - Tony Richards for Viking Leon, 5 Vista Lane, A/P 7-021-24, 1) design review of a single family dwelling; 2) a 17' frontyard variance to construct a dwelling within 3' of the front property line; 3) a 3' rear yard variance to construct bay windows within 17' of the rear property line; 4) a 20' frontyard variance for driveway retaining walls to be within 0' of the front property line; and 5) a 13' frontyard variance to construct an uncovered deck within 1' of the front property line. **CONTINUED TO THE MEETING OF MARCH 15, 1993****

4. **V-9244 - Lenore Mathews, 72 Foothill, A/P 7-033-12, a 17' front yard variance and an 8' side yard variance to construct a 2 car garage and addition within 3' of the front property line and 0' of the side property line; and 2) a variance to provide only 2 off-street parking spaces (3 required), on property located within the R-1 Zoning District. **CONTINUED TO THE MEETING OF MARCH 15, 1993****

E. PUBLIC HEARINGS

1. **V-9243 - Harry J. LeVine, 405 Scenic Avenue, A/P 7-032-02, 1) a parking variance for the property to remain without on-site parking; 2) a 5' rear yard variance to reconstruct an uncovered deck within 9' of the rear property line; and 3) a 8'4" front yard variance to reconstruct an uncovered deck within 5'8" of the front property line, on property located within the R-1 Zoning District**

The applicant was present.

Ms. Wight presented the staff report and noted that Mr LeVine has also enclosed a letter to the Commission discussing his project. She said that the Town Attorney agrees that granting a variance to one property owner does not set a precedent as to other property owners and each project should be looked at separately. Ms. Wight also stated that staff not have investigated the cost of an interim solution for parking because cost is not a factor in making planning decisions.

Chairman Mihaly asked staff how rigid they felt about the parking issue relative to a policy issue. Ms. Wight stated that during the 1991 Zoning Ordinance revision, the code was changed to require three parking on hillsides. Therefore staff feels very strongly that parking be required. Ms. Chaney stressed the importance of access of emergency vehicles and off street parking especially in light of the Bald Hill discussions.

Commissioner Israel asked if the 50% value could be placed on the entire property. Ms. Wight stated that was not how it is calculated.

Mr. LeVine stated that he wants to fix the deck. He is not expanding the deck, it is a board for board replacement. The deck is half of his living space. It is hard to imagine that half the house has to be torn down to make it legal. He submitted letter to the Commission dated February 27, 1993 and explained how he has attempted to get bids to rebuild the carport. Mr. LeVine said he is not convinced on the Town Attorney's explanation of use as explained in his letter to the Commission. He was hopeful that he could just fix his deck and asked the Commission for approval.

Commissioner Sias sympathized with his position but supported the staff report because of the safety issue. He thought that staff analyzed the situation very well and his vote for denial is based on the safety for the Town. Also, the Commission in the past has leaned favorably in support of variances for additional off street parking recognizing the difficulty of parking on the street in the hillsides.

Commissioner Harle supported staff's position but thought it was a shame to have the property owner put in this position. However he could see no possible justification to permit no on-site parking at all. It is unreasonable to tuck cars on the street on the hillsides. In the past approval of no on-site parking has been approved by providing on-site parking elsewhere.

Commissioner Julin wanted to find a way to unlink the deck repair and the parking variance. The way the code is written and being interpreted seems to be following a very difficult path. She felt that by linking the two is delaying the repair of a safety issue. She understood the importance of fire safety issues however there is no control to prohibit owners from parking on the street if they do have garages or parking decks. She supported Mr. LeVine's proposal to reconstruct the deck and at some time in the future build the car deck. She did not think this would hurt the

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF MARCH 1, 1993**

community to go this route.

Commissioner Israel thought the staff report was very thorough. He disagreed with Julin about the requirement of parking on street. However, he wished there was some way also to unlink the rebuilding of the deck and construction of the car deck. He thinks this deck is a replacement in kind and not new, and therefore would like to see the code changed to allow him to make the safety repairs necessary on his property.

Commissioner Hayes stated that the way staff has recommended this gives the Commission no alternative but to deny although he does understand the need for Mr. Mr. LeVine to repair his property for safety reasons. He also agreed with Commissioner Harle about the need to require on-street parking in the hillsides.

Commissioner Harle stated that it might be more of a hazard to have parking on-street than the safety issues relative to the deck. He stated that perhaps the house would not have transferred title if it was disclosed that on-street parking was prohibited.

Chairman Mihaly stated that he supported staff's position. He was not necessarily supportive of the linkage but does agree that on-site parking is important. He felt that this is really a policy issue.

M/S Harle, Sias to take the following action on V-9243 - Harry J. LeVine, 405 Scenic Avenue, A/P 7-032-02, 1) a parking variance for the property to remain without on-site parking; 2) a 5' rear yard variance to reconstruct an uncovered deck within 9' of the rear property line; and 3) a 8'4" front yard variance to reconstruct an uncovered deck within 5'8" of the front property line, on property located within the R-1 Zoning District. 1) Deny the parking variance on the grounds that there are no special circumstances on the lot to prevent on-site parking, and without on-site parking, a safety hazard exists in terms of maintaining a 12' road clearance for emergency and service vehicles. 2. Approve the lower deck variance with the condition that building permits shall not be issued and construction not begun on the lower deck until such time that two-car parking is provided on the site. As a side note, should this lower deck variance be granted, it will expire within one year if construction has not begun on the lower deck (unless the Planning Director approves an extension, not to exceed one year). In other words, should the car deck not be constructed within two years, the lower deck variance will become null and void. 3. Permit the reconstruction of the stairs and landing between the dwelling and the Scenic Avenue roadway upon issuance of permits by the Building Department. 4. As a temporary solution, staff recommends that the applicant obtain any necessary permits and provide one 8' by 24' parking space parallel to the front property line, but located on the Town right-of-way, setback 4' from the edge of pavement, as shown on the drawing prepared by John Kottage, Public Works Director, June 29, 1990. 5. As a permanent solution, the applicant obtain permits and begin construction on a parking deck for two: 9' by 19' on-site parking spaces, not in tandem, and conforming to the minimum Code required setbacks. Prior to permit issuance, design review will be required for the structure. In addition, variances, approved by the Planning Commission, will be required if the structure is located in the required setbacks and/or on the right-of-way. It will also be necessary to confirm with the Public Works Director whether or not street widening will be required. As a side note, should the applicant decide to add living area to the dwelling in the future, the minimum on-site parking requirement is three parking spaces. Staff is only requiring two spaces at this time because it is a replacement of a parking deck and additional living area is not proposed.

Ayes: Hayes, Harle, Israel, Sias, Mihaly

Noes: Julin

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

Commissioner Julin stated that she would like the Town to consider a code amendment. Prior to this type of situation coming before them again. She stated that it is not fair to deny this applicant in his situation when nothing else will be done to other cars on the very narrow roads.

Chairman Mihaly asked are there were any enforcement techniques that can be taken by the police for on street parking.

Commissioner Israel wanted the definition of replacement versus repair to be defined. He felt strongly that this situation is one opportunity to give back to the neighborhood the parking that was taken away when the deck was demolished.

Mr. LeVine stated there was a demo permit, and a resale report that did not say parking was substandard. People do park on the street, and he stated that it was intent to build parking but he is unable to do it right now.

2. **V-9305 - Randy and Ana Marla Arena, 9 Summit Road, A/P 7-031-43, variance amendment for 1) a retaining wall up to 6' in height on the southwest side of the proposed driveway; and 2) a retaining wall up to 4'**

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF MARCH 1, 1993**

in height within 1.5' of the southwest side property line on property located within the R-1 Zoning District (above 150' mean sea level).

The applicants were present.

Ms. Wight presented the staff report. She noted that a neighbor was concerned about the wall but has since talked to the architect and it is her understanding that she has no objection.

Mr. Arena stated that the retaining walls are to be of cement, not redwood as shown on the plans.

Ms. Wight noted that there is no design review on this project.

M/S Sias/Juliin to approve V-9305 - Randy and Ana Maria Arena, 9 Summit Road, A/P 7-031-43, variance amendment for 1) a retaining wall up to 6' in height on the southwest side of the proposed driveway; and 2) a retaining wall up to 4' in height within 1.5' of the southwest side property line on property located within the R-1 Zoning District (above 150' mean sea level). 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 zone in which such property is situated. Staff is able to make the finding of special circumstance due to the topography of the lot and the location. There is currently no available on-site parking. The property is slightly up sloping from lower Summit Road and becomes increasing steep to upper Summit Road. The proposed location of the garage is a logical choice. construction of the garage, setback from the road pavement, is preferred by staff as it will provide adequate backout room and safe sight distance. The strict application of the controlling zoning ordinance or regulation deprives the property of privileges enjoyed by other property in the vicinity and under an identical zoning classification, which have parking structures located in the front set back areas to serve their single family residential use; 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. 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 detrimental to the public welfare or injurious to property or improvements in such neighborhood. This area is not directly across from neighboring dwellings and will really only be visible as one drives up Summit Road. Adequate sight distance will be provided due to the location of the proposed garage in relation to the existing road pavement. Prior to issuance of permits, the existing culvert located in the area of the proposed driveway will be reviewed by the Public Works Director to determine whether drainage improvements will be required. **Conditions of approval are: 1. The Public Works Director shall review the condition of the existing culvert in the location of the proposed driveway and determine whether drainage improvements are required. Any such improvements will be the responsibility of the property owner; 2) the project be built according to plans date stamped received by the Town of San Anselmo on 11/24/92 with amendment of concrete from redwood to be used as the retaining wall.**

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

4. **V-9310 - Harold Lezzeni, 31 Brookside Drive, A/P 5-181-09, 1) a side yard variance request to construct a first and second floor addition 3'9" from the side property line where 8' is required; 2) a side yard variance to construct a deck 3' from the side property line where 6' is required; and 2) increase lot coverage to 43% where 35% is permitted, on property located within the R-1 Zoning District.**

The applicants and Mr. Lezzeni their Architect, were present.

Ms. Chaney presented the staff report. She noted that in recalculating the lot coverage, a variance for coverage is not required. Also, while doing a site investigation she noticed that a spa was placed on the deck within the rear yard setback but there was no record of a variance being granted. She suggested that the spa be re-noticed and brought back. She stated that staff could support the spa in the present location because it sits on the rear property line and backs to the creek and therefore will have no negative impact on the neighbors.

Mr. Ardito stated that although his lot was somewhat rectangular, it does narrow to the rear. He stated that the original builder built several houses in the neighborhood and was careful to maintain 10 feet between each house. They have proposed several designs and felt this was the best. One alternative plans was not to go up but they felt it would cause a variance for lot coverage and take away from the backyard. To move in the additional feet to meet the side yard setback would reduce the width to of their addition to about 12 feet. He stated that it was important to keep the trees and as much of the yard as possible. There are letters of support

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF MARCH 1, 1993**

from all of his neighbors.

Ms. Chaney noted that all lots do seem to taper on his side of his street.

Mr. Lezzeni stated that the house is split level and difficult to add on to. It was his opinion that any addition that would meet his clients needs would require a variance. Also, if the side yard setback was adhered to the loads would be very difficult for the second story.

Commissioner Harle stated that he was inclined to support the application. The previous building line is being followed and this is a neighborhood where five foot setback were the rule. The variance is represented by the sequence of the lot. Saving the tree takes precedence from the slight encroachment of the old setbacks. Also, he was persuaded that the first floor addition as proposed for the flood safety. The placement of the upper floor seemed the most logical placement. Houses across the street, although one story, are elevated and look to be two stories. The only draw back is the second story window which will look down on the next door neighbor.

Commissioner Julin supported the proposal. The tapering lot line does present a problem. The second floor is set back from the front of the building and to reduce the addition to conform to the setbacks would create a very addition with unusable space.

Commissioner Israel felt the architecture was very well done. He felt this was the best plan given the location of the trees, the interior plan, and the setback of the second story. This will also not create shade for the neighbor. The flood issue also helps to make the special circumstances. The two windows in the master bedroom could be a potential negative impact on the next door neighbor.

Commissioner Hayes supported the proposal for the reasons stated by his colleagues. He stated that there are other houses in the neighborhood that have expanded up and the Commission should take note that this may well be the way of the future in the neighborhood. He stressed that maintaining the ten foot setback between houses should still be maintained.

Commissioner Sias said the design was quite nice but staff has done a careful job of analyzing this. He could not find a reason for making this lot unique in the neighborhood. There are other methods of protecting against floods. He was concerned about building a 26' wall 10 feet from his neighbor. He felt this would be precedent setting. This is already happening on Broadmoor and Brookside within this neighborhood and he felt this addition will and other similar addition are overcrowding these small lots. Affordable housing is being lost in San Anselmo because families want to expand.

Chairman Mihaly felt the design was very nice but could not support a 26' wall, 3'9" from the property line. He suggested a continuance for redesign or a denial.

Commissioner Hayes was not persuaded to change his opinion. The applicants have stated that they have spent one year with the design and this must be the best solution.

Commissioner Israel stated that if a lot coverage variance was required he would not have supported the proposal.

M/S Israel/Harle, to approve V-9310 - Harold Lezzeni, 31 Brookside Drive, A/P 5-181-09, 1) a side yard variance request to construct a first and second floor addition 3'9" from the side property line where 8' is required; 2) a side yard variance to construct a deck 3' from the side property line where 6' is required; and 2) increase lot coverage to 43% where 35% is permitted, on property located within the R-1 Zoning District. 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 zone in which such property is situated. Staff is able to make the finding of special circumstance due to the topography of the lot and the location. to approve plans date stamped Received by the Town of San Anselmo on January 29, 1993. Special circumstances are the adjacent property is nominally 10' away and parallel to the proposed addition; the unique nature of the split level design of the orig house and the 2 large oak trees in the rear yard, as well as the fact that the house is to the north of the house it is in close proximity to; This is conditioned upon the fact that the two windows on the east side of the master bedroom either be removed, use clear story windows, or the use of obscure glass, to screen. 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 detrimental to the public welfare or injurious to property or improvements in such neighborhood. The addition will be a benefit to the neighborhood and there were letters of support from the neighborhood.

Commissioner Hayes suggested that the applicant might want to plant landscaping along the rear wall to screen.

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF MARCH 1, 1993**

Ayes: Harle, Julin, Hayes,

No: Sias/Mihaly

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

Mr. Ardito stated that the windows were put there because they would be in keeping with the other windows on the first story but he had no problem with making them smaller to let in the morning sun. He stated that his lot is the lowest on the street and therefore lends validity to the flood plain issue.

F. GENERAL DISCUSSION

1. Consideration of second unit waiting list procedural guidelines.

Ms. Chaney explained the procedure.

Commissioner Sias wondered what constituted proof on the waiting list. Ms. Chaney stated that correspondence would be proof as well as staff recollection.

Commissioner Hayes stated that because of the nature of the issue, a press release should be made.

Commissioner Julin said that having a second unit has economic value to the owner and it would be reasonable to charge a fee to be on the waiting list.

Commissioner Sias agreed with the idea of charging a fee to be on the waiting list.

Commissioner Hayes suggested a two step process; 30 days to file a notice of intent and 60 days to file.

Commissioner Julin suggested referring this to the Council for their determination. Items for Council to consider: 1) the two step process; 2) to release a public notice in the newspapers that the second unit file is missing and any one who has proof that they were put on that list should come forward; to formally adopt a second unit waiting list policy and recommend that a fee be charged to be placed on the waiting list. This could be done by an amendment to the fee ordinance.

2. Ms. Chaney explained that at the last Council meeting there was a discussion of using the air space over the Pine Street parking lot for low income housing. North Bay Rehabilitation Facility has approved HUD funding but the site that they originally selected has been lost. They are interested in discussing the Pine street site with the Town.

G. OPEN TIME FOR PUBLIC DISCUSSION

There was none.

H. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

41 Hillcrest Court and Cellular One has been continued to the meeting of March 9, 1992.

Bald Hill meeting is scheduled for Thursday night.

I. ADJOURNMENT TO THE MEETING OF March 15, 1993

The regular Planning Commission meeting was adjourned at 10:25 p.m. to the next meeting on March 15, 1993.

BARBARA CHAMBERS