

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES FOR DECEMBER 6, 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, Planning Consultant Delvin Washington, and Planner Lisa Wight.

**A. CALL TO ORDER**

Commissioners present: Harle, Mihaly, Israel, Sias, Julin, Hayes  
Commissioners absent: None

**B. PUBLIC HEARING - WITHDRAWN**

1. NU-9303/V-9333 - Frank Watsuta, 37 Yolanda Drive, A/P 7-043-19, Use permit and Parking Variance from 3 to 2 spaces for a second unit on property located within the R-1 Zoning District. The second unit would be located within an existing two-story structure located within the rear and side yard setbacks. Parking on-site currently provides two spaces where 3 non-tandem spaces are required.

**C. CONSENT**

1. Minutes - November 15, 1993

M/S Sias/Israel, to approve Consent Agenda.

Ayes: Harle, Mihaly, Sias, Julin  
Abstain: Hayes  
Motion carried.

**D. CONTINUED - PUBLIC HEARINGS**

1. 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 11'0" from the front property line (20' required), and 4' from the west side property line (8' required), and to remove three (3) redwood trees having trunk sizes of 24", 24" and 26" in diameter, on property located within the R-1 Zoning District (Above 150' mean sea level). **CONTINUED TO THE MEETING OF DECEMBER 20, 1993**
2. DR-9314 - Andrea Moyer of 43 Tomahawk Drive, A/P 177-250-60, a design review request to paint the exterior of the house with an alternative color that does not conform to the approved color palette for homes on Quarry Mountain, on property located within the R-1-H Zoning District. **CONTINUED TO THE MEETING OF DECEMBER 20, 1993**

**E. PUBLIC HEARINGS**

1. V-9334 - Ben Berto and S. Trevillyan, 322-324 Butterfield Road, A/P 5-042-14, 1) a 5' side yard variance to construct a new carport and shed 3' from the south side property line (8' is required); and 2) a request to construct an 8' fence a distance of 30' along the south side property line, on property located within the R-1 Zoning District.

The applicants were present.

Mr. Washington presented the staff report. as well as circulating a written statement from the applicant to the Commission.

Commissioner Sias asked about the two structures on the property and the required parking. Ms. Chaney stated that because the second unit was grandfathered in, the current parking with the one car garage with additional one car parking is acceptable, and does not require a third parking spot.

Commissioner Israel asked about the side setback for the neighbor at 324 Butterfield and how the addition would impact them. He was also curious about the conditions of approval of the 8' fence. Mr. Washington felt there were grounds to approve the fence, both for privacy and that it is a side fence that will be used in a fairly small stretch of the side yard. Also, it would be granted under an administrative variance if no one objected.

Mr. Berto stated that he just purchased the property in April 1993. They have done improvements to the main house and the second unit. He presented a diagram that indicates a parking radius for maneuvering cars in and out, as well as findings for approval for his application. With regard to parking, He demonstrated that a vehicle could not turn around in any location other than what they have proposed. His proposal is the only configuration that will work. They want covered parking to protect their car from the bay tree and want something that is least visible. The location they have chosen is also the most inconspicuous location. With regard to the shed, they need additional storage

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for equipment and bicycles. With regard to height, this shed was thought of as storage but also to work in. With regard to location, the topographic location of the lot is somewhat nonconforming because of the jog in the lot. In addition, there are two pine trees and an oak tree on the lot which would not be a good location for the shed. Finally, 85% of the lots in this area have a zero setback and therefore he is not asking for a grant of special privileges. They would consider increasing the shed distance from the setback if required by the Commission. Both neighbors approve of the variance.

Chairman Mihaly wondered why the shed couldn't be moved. Mr. Berto stated that a post had to be removed from the frame that exists because it was impossible for a car to turn around and exit. If the shed was moved in, it would prohibit usable parking.

Mr. Berto said that if they were able to maintain the same 5' setback as the frame of the shed, they could live with it but the shed would be long and narrow.

Commissioner Israel asked if the applicant has considered moving the shed back. He also wondered why there was a distance between the second unit and the shed. Mr. Berto thought there was a maximum of 700 square foot allowed for second units as well as not wanting to imply that it will never be linked together.

Mr. Washington stated that there is no maximum size for second units.

Ms. Chaney stated that there are alternate solutions for the placement of the structures that will meet the setbacks and therefore staff was not able to make the findings for approval.

Commissioner Sias was inclined to support the variance to allow the carport because it will protect the car from the bay tree. Also, the configuration of the lot allows no other alternative. He was not able to make the findings for approval on the shed because there are alternative locations on the site. He supported the fence.

Commissioner Hayes concurred with Commissioner Sias. He was convinced about the parking based on the demonstration by the applicant. He had trouble making the findings for the shed because of the alternate locations. With regard to the 6' setback, he would not likely to see a variance for the shed.

Commissioner Julin felt that the configuration of the lot allows for approval of both the carport and the shed. The plan view of the lot does not favor the proposal but actually on the site, one would not have the impression that the structures are squeezed in. Therefore, she supported the application. She also approved the 8' fence. She wondered if the driveway could be gravel instead of asphalt.

Commissioner Sias indicated that he would approve the variance for the shed if it did not go beyond the house setbacks.

Commissioner Hayes said if the shed was just a continuation of the house, it would look more like an integral part of the house.

Commissioner Harle stated that he could make the findings for approval on all aspects of the project.

Commissioner Israel felt the applicant made a good case for the geometry of the parking. He cannot accept the variance for the shed and would like to see it moved, and reduced if necessary. He would favor the variance if it was in line with the face of the house. If the shed was more integrated to the second unit it would be better. He did not care if it was integrated with the house or the carport. A shallower roof slope would bring the shed in conformance with the other structures. He would support pushing the parking back more so as not be in conflict with 318 Butterfield. Commissioner Israel did not support the 8' fence height.

Commissioner Harle agreed with the applicant that the neighborhood has violated all the setbacks. The neighborhood is old and has no logical connection with the newer neighborhoods where setback requirements were in place. He felt it would be illogical to prohibit the applicant the use of yard space in order to meet the setbacks.

Mr. Berto stated that he would voluntarily change his application to relocate the shed and would construct it with a 1 hour wall, which would then be considered a separate structure within the UBC.

*M/S Sias/Harle, to approve V-9334 - Ben Berto and S. Trevillyan, 322-324 Butterfield Road, A/P 5-042-14, a 5' side yard variance to construct a new carport and shed 3' from the south side property line (8' is required); on property located within the R-1 Zoning District. 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 and identical zoning classification, and the granting of a variance will not constitute a grant of special privileges inconsistent with the limitations upon other*

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*properties in the vicinity and zone in which such property is situated.* The configuration of the lot makes it impossible to position the carport any other way than what is proposed by the applicant; the shed is approved to be constructed along the south edge of the existing second unit with the conditions that: 1) it be separated by the second unit with a 1 hour fire wall; 2) be retained as a second structure; and 3) that the plate height not exceed 8' and the roof shed not exceed 4:12; This approval is based on the configuration of the lot and that it is the most logical location for the shed for the intended use for storage of vehicles and needs to be assessable from the driveway; *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 or the applicant and will not be detrimental to the public welfare or injurious to property or improvements in such neighborhood.* Other properties in the neighborhood experience the benefit of carports and storage sheds on their property and there have been no complaints from either of the neighbors most affected by this addition.

M/S Sias/Harle to approve V-9334 - Ben Berto and S. Trevillyan, 322-324 Butterfield Road, A/P 5-042-14, to construct an 8' fence a distance of 30' along the south side property line. *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 and 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.* The fence height will provide additional privacy for this residence and the adjacent neighbor and is consistent with existing fence heights in San Anselmo. This is conditioned that the fence be brought to the front property line. *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 or the applicant and will not be detrimental to the public welfare or injurious to property or improvements in such neighborhood.* An eight foot fence will not have any detrimental impacts on the subject or neighboring properties.

Ayes: Harle, Hayes, Sias, Julin

Noes: Israel, Mihaly

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

2. LLR-9302/PP-14/ER - James Helfrich, The Alameda (across from 443 The Alameda), A/P 5-043-16, 5-043-22, 5-043-31, 177-133-13, and 177-220-54, Amendment to a Tract Map and Precise Development Plan in order to relocate lot lines and to relocate the proposed dwelling on Lot 1 (which was approved on The Alameda, which is the north side of the private driveway) to the south side of the proposed private driveway (away from The Alameda), and the initial environmental review.

The applicant was present

Ms. Wight presented the staff report.

Commissioner Sias thought that this proposed site was ruled out in the past because of site stability. Ms. Wight stated that borings were taken and it was determined that the site was stable.

Mr. Helfrich stated that the this location has an approved boring on this into bedrock. The reason he wants to move it is that it was so close to the street and the engineering and turn around was approved for the other site. He stated that he has kept the lot sizes the same as previously approved. The wires would hang close to the homes. He stated that Mr. Mayock talked to him about the lights from vehicles shining in from the property to his. Mr. Mayock has asked that the turn be moved a little to the east, which will protect the tree. Mr. Helfrich concurred. He also stated that he is offering the drainage bypass pipe in conjunction with the new house location. This will require Mr. Mayock's approval to go on his site to do the work.

Mike Mayock, 433 The Alameda, spoke for everyone on The Alameda. They would all rather have the house up above the roadway than on The Alameda. His front door is directly in front of the driveway. If the parcel is left as approved. There will have to be a giant sweep to make the turn, and he would prefer the cut to be farther up the road as much as possible just for safety reasons. He thought that as proposed, cars will bounce down and up and lights will shine in his house. He said the drainage is inadequate now. Last year the 20" drain was 3' over. Currently during the rains, the water is not coming off Helfrich's property by the driveway; it is actually going down The Alameda. you are going to collect it all and put it at this point by my property. Even though there will be less volume because there will not be dirt, a greater flood will be created even with the additional pipe. Something else has to be done besides the pipe He thought that when this property was developed, the residents on The Alameda would get improvements to the drainage and road. Because of lawsuit, Mr. Helfrich took it all away. When it rains, he has to get up every 3 hours to clear the drain.

Ms. Wight stated that she spoke with Wayne Bush, the Town Engineer and he is comfortable with the proposed drainage.

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Mr. Bush said the court system said the Town cannot impose Mr. Helfrich to put the drain down The Alameda, even though that is what is needed.

Commissioner Hayes questioned Mr. Mayock, stating that there are 2 pieces of pipe; one is the 15" pipe that will collect water from Mr. Helfrich's property that goes into a 30" pipe. Second, is the bypass under the street. In addition, there is a parallel 15" pipe.

Mr. Mayock said it will still flood. He said that Mr. Bush told him that it is inadequate, but this is the best that the Town can get.

Commissioner Sias said that his recollection was that this would relieve flooding but it just moves the problem downstream although it doesn't make it any worse.

Mr. Helfrich stated that one of the problems wasn't just the opening, but that it is at a high elevation, so it can never meet its full capacity. The pipe is not acting as a 30" pipe, so adding another 15" will help.

Public hearing closed.

M/S Julin, Harle, to adopt the staff report and Resolution Number 9303.

Commissioner Hayes asked for an explanation of the retaining walls that need to be constructed for the new driveway. Mr. Helfrich showed on the plan and noted that the new landscaping for the wall near 444 The Alameda and on the other side of the driveway.

Commissioner Hayes felt that this proposal would be more visible to the surrounding hillsides. Mr. Helfrich is trading the impacts on The Alameda against the hillside impacts. These are fundamentally important issues but if none of the other Commissioners wish to discuss it, then he won't. He said he tends to have the same feelings as Mr. Mayock that drainage is better than nothing, but it will not solve the regional problem.

Commissioner Sias felt the additional drainage will help. The Alameda residents will appreciate this change and he will depend on the design review process to minimize the impact of this more visible site to those across valley. With the 300' noticing rule, no one affected has been notified. He would like them to be notified.

Ms. Wight said that the list can be expanded to Fawn Drive and others that have a view at design review stage.

Chairman Mihaly said that this proposal cuts against his interests because he will probably see this house, and his children currently enjoy the bumpy road . . . but this is a better site than on The Alameda. The drainage problems cannot be solved without an assessment district.

M/S Mihaly/Sias, At the time of noticing for the Design review, the notice include those parcels within the immediate view shed across Deer hollow and Fawn, as is reasonable.

Ayes: Hayes, Julin, Sias, Israel, Mihaly

No: Harle.

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

In addition, the Town Council and Gus Kanis should also be noticed.

3. Town of San Anselmo - Proposed Ordinance Amendment to limit fence heights within the front yard setback to 3'6" where 6 feet is currently allowed.

Ms. Chaney presented the staff report and explained that the public notice did not get into the newspaper to meet the ten day requirement therefore the Commission cannot act on it tonight.

Commissioner Sias said that the whole purpose of this amendment is to prevent streets from being walled in by high fences. He did think side fences should be considered in this amendment.

Commissioner Israel felt that street side yard fences can be the most dangerous.

Commissioner Harle stated that a dense hedge is just as objectionable as a dense fence. Whereas, an open fence can be okay.

Ms. Chaney passed out photographs of fences.

Commissioner Hayes thought the issue before the Commission is whether it is congruous with neighborhood and works toward good planning. He would not insist on a variance, but a design review triggering a public hearing would satisfy his concerns. In fact he thought that a design review should be required for a fence under 6' and a variance would kick in for a fence over 6'.

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Chairman Mihaly wondered what the special circumstances would be for approving a fence over 6'. Perhaps, the shape of the lot could work at times. He said the recommended findings in the staff report are good.

Commissioner Sias said that anything over 4' should have design review.

Commissioner Harle said that some tall fences are not obtrusive, particularly when they are open and not close to the street.

Ms. Chaney explained that the way the ordinance amendment is written, you could have 3.5' solid and anything between 3.5 and 6' would require design review. A fence above 3.5' would have to be an open fence.

Chairman Mihaly thought that a fence over 6' should get design review; above 8' should be required to get a variance.

Commissioner Hayes asked why stop at 8'? It is a wall at 6' or higher.

Commissioner Mihaly said that if it is rare that applications come in for fences over 6', make it a variance; otherwise, go with design review only.

Commissioner Israel did not think there would be justification to grant 8' fences.

Ms. Chaney explained that Sausalito has a rule that as the height increases, so does the setback.

Commissioner Harle asked about hedges.

Ms. Chaney said they have the same impact, but they are difficult to enforce because they grow.

Commissioner Israel said the hedge on Broadmoor, because it is a single element, is unobtrusive; but if you put it on every house, it would be obtrusive.

Chairman Mihaly thought that the consensus of the Commission is that it should be made clear that it is the whole fence that needs review; the findings are alternative; include side street fences; 3.5' is okay; 6' is where we stop and require a variance; administrative design review for over 3.5' height.

Chairman Mihaly questioned requiring a variance for over 6' and design review. He thought that just a variance is the way to go. He wondered if design review can be attached to the findings on that? He suggested that the Town Attorney should be asked.

Commissioner's Mihaly and Israel offered examples of fence situations that could warrant a variance: topography of the lot and the street.

Chairman Mihaly suggested that staff come back with another draft at 3.5' - 6' for design review; and maximum height of 6' or get a variance.

Commissioner Israel wondered if the Commission wanted to see 6' fences lining Sir Francis Drake Boulevard? He did not want to see it become a sound wall. He would like to see same criteria there as for rest of town.

The consensus was that Sir Francis Drake Boulevard should be treated the same as fences in other areas.

M/S Mihaly, Sias, to continue Town of San Anselmo - Proposed Ordinance Amendment to limit fence heights within the front yard setback to 3'6" where 6 feet is currently allowed. This is continued to the meeting of January 10, 1994.

**E. GENERAL DISCUSSION**

The consensus of the Commission was to postpone the first Commission meeting of January from the third to the 10th.

**F. OPEN TIME FOR PUBLIC DISCUSSION**

There was no discussion.

**G. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL**

There was no discussion

**H. ADJOURNMENT TO THE MEETING OF December 20, 1993**

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The regular meeting of the Planning Commission was adjourned at 10:58 p.m. to the next meeting of December 20, 1993.

  
BARBARA CHAMBERS