

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION MEETING OF JANUARY 8, 1996**

The special meeting of the San Anselmo Planning Commission was convened at 7:30 p.m. in the Council Chamber by Chairman Israel. Staff present was Planning Director Ann Chaney, Associate Planner Lisa Wight and Planning Consultant Delvin Washington.

**A. CALL TO ORDER**

Commissioners Present: Harle, Duys, Wittenkeller, Israel and  
Sargent who arrived at 8:00 p.m.  
Commissioners Absent: Mihaly

**B. CONSENT**

1. Minutes - December 18, 1995

M/s Harle/Wittenkeller, to approve Consent Calendar.  
Motion unanimously passed.

**C. OPEN TIME FOR PUBLIC DISCUSSION**

1. Ross Valley Fire Services Discussion - Steve Fisher, Fire Marshall

Fire Marshall Fisher was present to discuss with the Commission any questions they may have regarding future planning projects. It was his understanding that the Commission might have questions regarding roadway width and turn arounds for new projects.

Commissioner Wittenkeller stated that he feels strongly that the Fire Department be linked up to applications early in the process so applicants are aware of all things involved. He also wondered if the Fire Department saw any conflict between the Fire Department and the Town Tree Ordinance. He would never want to see safety jeopardized.

Fire Marshall Fisher stated that he works in conjunction with Staff in maintaining the Tree Ordinance without compromising safety.

Chairman Israel agreed that the more fuel removed away from the homes is safer; however, the Town does not want to see trees removed, particularly in the hillside. Also, in the past, the Fire Department has asked to provide a wider driveway than the roadway width. In many cases it creates more tree removal and larger retaining walls. He wanted to make sure there is a logical balance.

Fire Marshall Fisher concurred that they do not want to perpetuate a problem however there are alternatives. The fire trucks are a certain width, the widest being 11', and they need to be able to access the roadway.

Commissioner Wittenkeller suggest that Staff review with the Fire Department all applications at the beginning stages of an application. He would also like to see the Fire Department's recommendations as part of the staff report.

Ms. Chaney suggested that perhaps the Fire Department could provide a one page memorandum on the project.

Fire Marshall Fisher responded that he would be happy to provide a memo but sometimes he cannot provide detailed information until the project gets to the building Department stage.

**D. PUBLIC HEARINGS - CONTINUED**

1. Environmental Review/PDP-9501/V-9541 - Jack Hunt, Between 41 and 43 Tomahawk Drive, A/P 177-250-31, 1) Environmental Review, 2) Planned Development Permit, and 3) Variances to ultimately construct a single family home with access via a long driveway off of Tomahawk Drive. A Variance is required to construct a 450' long retaining wall (maximum height of 7') within 3' of the north side property line (8' required) and within 3' of the front property line (20' required); and to construct a series of retaining walls totaling 251' long (maximum height of 9') within 2' of the south side property line (8' required). These retaining walls are proposed for the driveway and parking area and deck. Design Review for a specific house design is not part of this application. The property is located within the R-1-H Zoning District. CONTINUED TO THE MEETING OF 1/22/96

2. V-9553 - Michael and Mary O'Brien, 40 Mountain View Avenue, A/P 5-223-17, a 6' rear yard variance to construct a garage, office and master bedroom within 14' of the rear property line (20' required), on property located within the R-1 Zoning District. CONTINUED TO THE MEETING OF 1/22/96

3. PDP-9505/Parcel Split - 9503/V-9549/DR-9525 - Carlos Castro, 444 Redwood Road, A/P 7-191-10, 1) a precise development plan, density determination and design review to subdivide an existing property currently developed with a single family residence in order to

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construct a new house; and 2) a variance to allow an access easement across the existing driveway for 444 Redwood in order to serve the proposed new parcel; 3) Remove one heritage tree (30" bay); this project will involve the removal of 12 additional bay trees between 6" and 22" in diameter and one 15" walnut tree, on property located within the R-1H Zoning District. CONTINUED TO THE MEETING OF 1/22/96.

4. DR-9530/S-9503 - Red Hill Shopping Center, 834-916 Sir Francis Drake Boulevard, A/P 6-061-23, design review of new exterior building colors and sign review of a new sign program on property located within the SPD Zoning District. CONTINUED TO THE MEETING OF 1/22/96

**E. PUBLIC HEARINGS**

1. V-9546 - Alan Voigt, 35 Sierra Avenue, A/P 5-194-19, a variance request to: 1) construct an addition that will increase the overall lot coverage to 39% (35% maximum coverage allowed); 2) to increase the height of the entire house by 4', the existing building walls are located 4'-6" from the north, and 4' from the south side property lines (8' required side yard setback); and 3) reconstruct the existing front stairs and landing 4' from the side property line (6' required side yard setback). Increasing the height of the house will increase the total floor area of the house from 1,487 square feet to 2,736 square feet including the new garage area; This property is located within the R-1 Zoning District.

The applicant and his Architect John Blackwell, were present.

Mr. Washington presented the Staff Report.

Mr. Voigt said they have a long term commitment to improve their home. The house was built in 1912 as a summer home. They have made some modifications to meet the Commission's request as well as the needs of their neighbors. The house currently has two bedrooms and one bath; the downstairs area is substandard and not livable. They have eliminated the bump out as requested by the Commission; he has no concern about removing the trellis. With regard to the back deck, they would not be willing to remove it because they have very little outdoor living space. With regard to the variance, there is a mixture of two story homes in the neighborhood and many homes exceed theirs in square footage. They have carefully explored many options, but they require sewage and drainage improvements and the variances are necessary to achieve the upgrades. They will provide a garage in a neighborhood that has many cars.

Commissioner Harle wondered if the applicant was aware of the planning restrictions on the property prior to purchasing the property. Mr. Voigt stated that he was not aware of all the zoning regulations but that he would have purchased his house anyway.

Commissioner Sargent asked about the drainage problems and how it ties into the need for a variance. Mr. Voigt said they want to replace the foundation, which will increase the building height.

Mr. Blackwell explained the need for the addition. He stated that they are asking for an 18" variance in the height. He noted that the trellis is expected to be mounted and suspended, and he did not think it should be counted in lot coverage.

Ms. Chaney discussion lot coverage. It appears that a small amount of increase in percentage may look minuscule however, Staff has held very tight to lot coverage. In terms of the trellis, eaves do not count as long as they do not extend more than 2'.

Mr. Blackwell stated that the lot coverage overage would be for the decks, not for the house. Also, they have no problem with a deed restriction but if the zoning is ever changed it could be a problem.

Commissioner Harle stated that this is difficult because the Commission is asked to support something because it is outside of the zoning requirements and on a very small lot. On the other hand, they are providing off-street parking and have wide spread support from the neighbors.

Commissioners Duys is in favor of supporting this application. Because there is a 30' height limit, the applicants could come back with a large second story addition if it were set back 8'. This project increases the off -street parking and for those reasons she could support the application.

Commissioner Sargent supports the application. It looks like a two story now, they are providing off street parking, and the neighbors are in support of the project. A deck is open and different than an addition, therefore he is not concerned about the small percentage overage. He could make the findings based on the drainage problems.

Commissioner Wittenkeller concurs with Commissioner Sargent. He thinks it is splitting hairs for just 2% points. He said that because of the drainage problems associated with this house, the solution is raising the house. He likes the trellis and the decks and therefore supports the project as proposed.

Chairman Israel stated he supports what they are doing but cannot support the project. This is really a 2,700 square foot house on a small lot; a 64% FAR, which is quite large. He knows there are ways to accommodate drainage in another way without the need for a variance. He also cannot support the increase because of parking. He noted, that if they asked for a second story, they would have to come back for design review and it might not be supported. He has no concern about the trellis. The fact that the neighbors supported the project is a testament to the neighbors getting along but he is unable to support this project.

M/s Wittenkeller/Duys, to approve V-9546 - Alan Voigt, 35 Sierra Avenue, A/P 5-194-19, a variance request to: 1) construct an addition that will increase the overall lot coverage to 39% (35% maximum coverage allowed); 2) to increase the height of the entire house by 4', the existing building walls are located 4'-6" from the north, and 4' from the south side property lines

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(8' required side yard setback); and 3) reconstruct the existing front stairs and landing 4' from the side property line (6' required side yard setback). Increasing the height of the house will increase the total floor area of the house from 1,487 square feet to 2,736 square feet including the new garage area; This property is 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 under 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 property is unique because of the terrain, particularly the slope that is now accepting drainage from neighboring properties. Because of those special circumstances he is able to allow the minor variance.

M/s Sargent/Duys to amend: The impact is nominal due to the fact that essentially two floors already exist and the height variance is necessary to repair the drainage. The increase in coverage is related to the deck, not covered area and therefore will have no detrimental affect to the neighborhood; the increase in height is not detrimental because they could go up higher in that neighbored which would create more of an impact. The applicant is allowing off street parking to mitigate the variance.

*2. The granting of the variance, under the circumstances of the particular case, will not materially affect adversely to 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.*

The increase in coverage is related to the deck, not covered area and therefore will have no detrimental affect to the neighborhood; the increase in height is not detrimental because they could go up higher in the neighborhood which would create more of an impact. Also, there is no negative support from the neighbors.

**Conditions of approval are: 1. The approval is based on plans date stamped 12/19/95. 2. That applicant shall obtain all necessary development permits and conform with all adopted standards of the Building and Public Works Department. 3. The applicant shall record a deed restriction for this property that restricts the property to a single family use and prohibits the development of a second unit on this property. 4. 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 year provided the applicant places such request in writing to the Director showing good cause prior to the expiration of the discretionary action.**

AYES: Harle, Duys, Sargent, Wittenkeller

NOES: Israel

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

Chairman Israel noted for the record that the height increase will take away light and air from the neighbors.

**2. V-9601 - Chris and Michael Kasman, 18 Crescent Lane, A/P 7-221-22, a lot coverage variance to permit a new patio cover, which will increase the lot coverage from 48.6 percent to 50.3 percent (Code maximum: 35 percent); and a south side yard variance for a new patio cover up to 10.5' in height to be within 3' of the south side property line (Code minimum: 8'); on property located within the R-1 Zoning District.**

The applicant was present.

Ms. Wight presented the Staff Report.

Dr. Kasmen stated that when they bought the house they were unaware of the drainage problems in the backyard. There was a culvert that went under the deck and roots from the pecan tree exacerbated the drainage problems. Therefore they installed subterranean drains and a lap pool. They discovered that they required the shade fixture because they have a small child and his wife had to monitor the children in the pool and is sun sensitive due to migraine headaches. They were not aware a permit was needed and now that the house has been sold, the Building Inspector said a permit is required. He stated that the buyer would like to keep the sun shade. He has support from his neighbor at 10 Crescent Lane.

Ms. Wight stated that a permit was obtained in 1974 for a 400 foot deck but the deck shown on the plan is over 700 square feet.

Commissioner Duys stated that she would have a hard time supporting this proposal because this is a covered structure and the lot coverage has really been exceeded.

Commissioner Sargent asked to abstain.

Commissioner Wittenkeller stated that the project has been there for a few years and has worked with no complaints from the neighbors. He would be embarrassed to have the applicant tear the structure down and having to defend and make the findings of a shade structure.

Commissioner Harle agreed that the sun shade is a small structure but is not essential, although he understands why it is important to the applicant. The Ordinance is in place to be upheld. In this particular case he is unable to support the application.

Chairman Israel stated that this project is way over developed. If it is being approved today, and not after-the-fact, he could not support it. He supports densification but it has to be done in a way to support planning guidelines. There are policies and standards that should be upheld by

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the Commission. If the Ordinance is not correct, then it should be changed. Until then, he feels it is important to follow the Ordinance.

Commissioner Wittenkeller said the Town was developed with marginal zoning regulations in the past and that is what is so charming about San Anselmo.

Dr. Kasmen stated that there was a medical reason that they constructed the screen.

Chairman Israel explained that the Commission cannot look at the medical reason because that it not one of the findings.

M/s Duys/Harle, to deny based on Staff's findings.

AYES: Harle, Duys, Israel  
NOES: Wittenkeller  
ABSTAIN: Sargent

The audience was advised of the ten day appeal period.

Commissioner Wittenkeller wanted to state for the record that the appeal fees should be waived. Staff noted that the fees could only be waived by the Town Council.

Chairman Israel commented that there is no legal parking spaces on the lot, there are large structures on the lot and it is more over developed than any other lot he has seen.

A discussion ensued as to whether or not the Commission wanted to initiate an ordinance change from lot coverage to FAR as well as to the merits of approving and denying projects and the impact to the Town.

**3. Town of San Anselmo - Zoning Ordinance Amendment restricting the reapplication of a development project for six months which has previously been acted upon**

Ms. Chaney presented the staff report. She noted that Staff had originally thought that a limitation of six months for reapplications was sufficient. However, in evaluating other cities' ordinances, a one year limitation for reapplications appears to be the norm. Because the Negative Declaration and notice identify a six month period, staff suggests that the six month period be used and that staff return with a clean up ordinance that adjusts it to one year.

There was a discussion on the merits of this ordinance change.

M/s Sargent/Harle, to approve the Negative Declaration..

M/s Harle/Duys, to approve draft ordinance as proposed.

All ayes. Motion unanimously passed.

The Commission also stated unanimously that they would support an extension to one year.

**4. Town of San Anselmo - Amendment to the Zoning Ordinance to revise and clarify the definition of "residential second unit" and add a new definition for "kitchen."**

Ms. Chaney presented the staff report.

Commissioner Sargent stated that he has a problem with this ordinance change. He suggested a wording change that includes "Two or more of the following".

Commissioner Harle is opposed to the ordinance on general principal.

Commissioner Wittenkeller has a real problem with this ordinance because it is very restrictive. There are many different lifestyles in San Anselmo. He also is not sure about the whole deed restriction process. He wondered what the issue really was. It was his impression that the deed restriction for second units meant that owners could not rent the unit out. The reason there are so many illegal second units is because people do not want to charge low rents. He thought rent control should be removed altogether and then people will come forward.

Commissioner Harle stated that when the second units were created, there was discussion about removing all of the second units because they are in residential neighborhoods and they did not want to change the character of the neighborhoods.

Ms. Chaney added that as part of the Housing Elements, the second unit rents have been identified as too low. She stated that the rents should be substantially raised and she will take that before the Council for modification in the near future.

Chairman Israel felt that there are a number of reasons people want a second kitchen and yet don't rent out a second unit.

Commissioner Sargent stated the kitchen facilities is what generates a separate living.

Chairman Israel stated that in his opinion it is interesting that unrelated people living in a house with one kitchen will not constitute a second unit, however they could generate additional traffic.

Commissioner Sargent is in support of the notion, but the problem is that there should probably be a kitchen, bedroom and bathroom and that a kitchen is defined on "three" of the following: refrigerator, stove, and sink.

Commissioner Wittenkeller suggested staff ask other cities about their second unit ordinances.

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Chairman Israel said the kitchen should be a factor.

Commissioner Sargent stated a separate entrance should be a factor,

Commissioner Wittenkeller asked Staff to compare wording with other jurisdictions.

Commissioner Wittenkeller wondered if Staff could consider removing rent control. There was no consensus on this.

M/s Harle/Duys, to continue to this item to February 5, 1996.

**F. GENERAL DISCUSSION .**

Election of Vice Chair of Planning Commission for 1996.

M/s Wittenkeller/Doys, to approve Commissioner Sargent as Vice Chair.  
Motion unanimously passed.

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

**H. ADJOURNMENT TO January 22, 1996. Meeting time will be 7:30 p.m.**

The special meeting was adjourned at 11:15 p.m. to the next meeting of January 22, 1996.

BARBARA CHAMBERS