

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF AUGUST 19, 1996**

The regular meeting of the San Anselmo Planning Commission was convened at 7:30 p.m. in the Council Chamber by Vice chair Harle. Staff present was Planning Director Ann Chaney, Associate Planner Lisa Wight and Assistant Planner Chip Griffin.

A. CALL TO ORDER

Commissioners Present: Duys, Wittenkeller, Harle, Cronk
Commissioners Absent: Mihaly, Israel, Sargent

B. OPEN TIME FOR PUBLIC DISCUSSION

C. CONSENT AGENDA

1. MINUTES: August 5, 1996
July 29, 1996

2. AMENDMENT - Environmental Review/DR-9516/V-9551 - Sarita Patel for George Lucas, 133 ESSEX, A/P 6-121-21 and 6-161-01, design review amendment of a single family dwelling, including a tennis court, retaining walls, grading, alteration of a portion of a ravine to a meadow, a bridge over Ancho Vista Avenue, and landscaping; and a slight height increase to the proposed house, on property located within the R-1 Zoning District.

3. V-9629/DR-9616 - Tom Herington, 39 MADERA, A/P 6-116-23, Design Review and Variance to construct a lower and upper level addition to the west side of the existing house, which is 0' from the front property line (20' required). The new addition will accommodate a master bedroom and deck area. New entry stairs are proposed within the public right-of-way, on property located within the R-1 Zoning District (above 150' mean sea level). A rear yard Variance to replace an existing retaining wall with a similar wall within 0' of the north property line along Crooked Avenue. A portion encroaches into the right-of-way.

M/s Duys/Wittenkeller, and passed, to approve Consent Agenda with Staff recommendations and conditions with the amendment to 133 Essex, Condition 5, that the applicant will install the 36" culvert.

Ayes: Harle, Cronk, Wittenkeller, Duys
Absent: Sargent, Israel, Mihaly

The audience advised of the ten day appeal period.

D. PUBLIC HEARINGS

1. PDP-9603/DR-9610/V-9618-David Bott and Karen Nelson, 80 SOUTH OAK AVENUE, A/P 7-241-50, 1) Precise Development Plan and Design Review request to construct a new single family home; and 2) rear yard variance to construct 3 water tanks and foundation within 2' of the rear property line; 3) a variance to construct a patio wall (9' high maximum) within 3'6" of the south side property line (8' required) on property located within the R-1-H Zoning District.

Ms. Chaney presented the staff report. She noted that the Streamline Act was up on August 8, 1996, however the applicant has agreed to a time extension.

She also drafted another condition for the Commission to consider as follows: If substantial grading or retaining walls are required, plans shall be made available to the Planning Commission, and the neighbors at 60, 951 and 1000 South Oak Avenue, for information purposes. If the Commission believes public discussion is needed on the matter, it should direct staff to schedule the item for a public hearing.

Ms. Chaney stated that she has also made revisions to Conditions 23, 26, 31 and 40 that have been added to the Staff Report. She also discussed the possibility of a variance for the patio. When it was redesigned the patio was moved and a variance was not required. If they lose some of their patio because of the preservation of the tree, Staff can support this. Also, the Town Arborist would prefer all building out of the root zone if possible.

Mr. Wilson, Wilson Associates, stated that only 15% of the patio will be in the root zone and will not impact the tree. He also stated that they will go no further than the 80' contour.

Ms. Chaney suggested that the proposed wording be: "The patio area shall not extend below the 80' elevation line."

Mr. Wilson explained that they were not completely married to the color palette but they do want an earth color. Also, the review of the interior lighting will take place prior to building permit issuance.

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Commissioner Wittenkeller stated that it could be reviewed by Staff during building permit plan check and prior to occupancy.

In response to Commissioner Cronk, Mr. Wilson explained that the transparent stain has been changed.

Ms. Chaney noted that the resolution should be changed to reflect the color changes.

Commissioner Wittenkeller stated that at the present time there is a grassy back drop and the house will pretty much fill that. It will be a house with an oak tree surrounding. The back drop is really a deep forest color and he does not see the mustard tones blending with the deep forest look.

Mr. Wilson explained that one of the reasons the colors are not extremely close to the same tone is because the colors will break up the building, noting that quite a bit of one section will be trim and windows and the lower part of the house will not be seen from the distance; the eaves will be more noticeable.

Mr. Bott stated that he felt the house was getting greener and greener and prefers a darker color.

Commissioner Wittenkeller commented that the lighter the color, the more reflective the house will be.

Debbie Treewater, 1000 South Oak Avenue, thought there would be a drainage plan discussed at this meeting and wanted to know if it would be available to her so her engineer could review the report. She also wondered when the possible road improvements will take place and if there will be a contribution from other neighbors for road work.

Ms. Chaney responded that the Commission should add a statement in the approval, noting what will occur with the other undeveloped properties in the vicinity. This will happen only if the resolution is amended; if not, the road will have to be paved at the end of this project. The applicants are being asked to pave their frontage as well as the Degmans frontage. Also, the Public Works Director will review the drainage plan during the plan check process and prior to issuance to the building permit.

Mary Tamley, 951 South Oak, was concerned about the heavy equipment on the road and the location that will be used for their turnaround. She did not want the vehicles to use her driveway.

Ms. Chaney responded that the Botts are required to put in the driveway first and use the driveway as storage of vehicles. The applicants will be required to put together a construction plan which should respond to the question about turnaround.

Mr. Bott stated that he will guarantee the construction vehicles will not use the Tamley property.

Commissioner Wittenkeller wondered if the vacant property adjacent to the applicant's property could be used as a turnaround.

Ms. Chaney suggested the additional condition be placed on pg. 9, 44G that: "Construction vehicles shall not encroach on developed properties."

Jonathan Braun, 479 Scenic, was disappointed that with all the discussion about visibility there has been no attempt to reduce the size and height of the house. A smaller, lower house would have a less visual impact. He felt that it was difficult to make a decision on color with such small palate and would suggest the Commission require 4'x8' panels. Lastly, he would like to see a performance standard regarding the trees as well as the other conditions in the Staff Report. He suggested a deed restriction which will alert future owners to the importance of maintenance of the trees.

In response to Mr. Braun, Ann Chaney said that the proposed color of the sash was a dark gray. She further explained that the landscaping shall be inspected in one year to ensure its health and viability.

Mr. Bott stated that he was opposed to any landscape condition being placed on his approval because he will spend a lot of money on landscaping and has every intention of maintaining it.

Theresa Tamley, 951 South Oak, concurred with the proposal of a larger color palate that can be placed on the site. Also, the sewer was a consideration at the last meeting but wondered about the status. She also has concerns about the roadway width of 15'. It is now about 10'-12' wide and she does not think it is possible to widen it to 15' in the entire area.

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There is a small drainage ditch along side of the road which should be kept clear during construction. There is also a pipe that drains from above and wondered how it will be maintained during construction.

Ms. Chaney explained that Condition #38 states the final decision of color could be putting a swath of color after the house is built. With regard to the sewer, the condition originally put together has not been changed. The preferred route is along South Oak but there is an option of cross country which will require environmental issues. Grading cannot take place during the winter months unless a winterization plan is in place and approved by the Public Works Director. It should be the same wording as in the Bald Hill Plan.

Commissioner Harle thought it would be preferable for the sewer to go cross country rather than down South Oak. Ms. Chaney responded that other engineers said that the downhill side may also have its own stability problems and that is why it was left up the Sanitary District.

Mr. Bott stated that his engineer said it would be less than \$50,000 to go cross country. Going across South Oak will be no less than three pumps and will be more than \$150,000 and the road will be closed for a period of time.

Ms. Tamley would prefer the sewer to go cross country because of the instability of South Oak Avenue.

Commissioner Wittenkeller suggested that the minutes reflect the comments about the sewer line and advise the engineers of this.

The consensus of the Commission was that unless engineering concerns make it inadvisable, the Commission would prefer the cross country approach rather than the So. Oak approach.

Mr. Bott stated that he wanted the Commission to make a decision on colors tonight.

Commissioner Wittenkeller agreed with staff's recommendation about the road improvements regarding grading and that the neighbors will be notified. He also concurred with a condition that the developer cannot turnaround on private driveways without the written permission of the owners. He is willing to take the owner on good faith about maintenance of landscaping rather than requiring a tree performance bond. The colors seem to be a big issue and he felt strongly that when the sheeting is up, a couple of 4'x8' sheets should be erected indicating the color preference, which will provide Staff and the Commission a better idea of the colors. He would like to reserve a final approval on the color until that time. He suggested that this be done prior to the stucco.

Commissioner Duys was torn because she is comfortable with the palette of colors before her now. Waiting for a color to be approved at the end could really hold up the project and be costly; it could perhaps be addressed during the rough framing stage. She would hate to cause a delay to the applicant. She could leave the final decision about color up to Staff. She felt the applicant will be responsible for landscaping and future maintenance of the trees. She suggested that Conditions #40 be modified to state: "...installed and maintained on the plans." She had no problem if the patio encroached into the setback and concurs with Commissioner Wittenkeller on all other issues. She suggested that Condition #35 be modified as follows: "...through cross country, unless determined by the Sanitary District not to be feasible.. "

Commissioner Cronk concurred with her colleagues with the exception of the color. She understood why the applicants do not want to wait but she still felt the color palette is too light.

Commissioner Harle supported all comments that have been made except color. He was content with the palette presented and is reluctant with any fine tuning. His experience has been that fine tuning does not give a much better result. He cited Quarry Mountain as an example. This is not a wilderness preserve, there are already houses in the area and this house is not out of character with the area.

Jonathan Braun stated that the 5 oaks being planted will eventually provide screening for the house and his comments are directed at future owners of the property and future generations.

Mr. Wilson stated that the concrete color would be needed for the water tanks. The trim color will be required well in advance of the sheeting.

Commissioner Wittenkeller suggested that all trees, new and old, be maintained in perpetuity and entered into a deed restriction.

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Karen Nelson stated that they have agreed to put the 4 oaks in the narrow area but there is still a question about how they will survive because of the small area. She would like that included in the deed restriction.

Ms. Chaney suggested that wording be added: "... unless otherwise determined by the Town Arborist..."

Commissioner Wittenkeller felt that all the colors except the dark mustard stucco were fine. The concrete and the retaining walls are fine; and the trim is not a problem.

Commissioner Duys felt it would be better to approve the color palette as a whole and was prepared to do that this evening.

Commissioner Cronk was opposed to the stucco color.

Mr. Wilson stated that he would like approval on the project tonight as well as on the concrete, with the remaining colors to be decided prior to framing.

Jonathan Braun felt the public should have input on the colors.

Commissioner Harle concurred that the public should have an opportunity to view the palette and provide input on the site.

M/s Wittenkeller/Duys, and passed, to approve Resolution 9601 with the following modifications: 1) there should be wording on road improvements; 2) there will be no turnaround on private driveways without permission from the property owners; 3) the long term tree performance will be in the form of a deed restriction; 4) the color of the concrete as shown on the Color Board dated August 19, 1996 is approved; 5) all other colors are to be reviewed on site with 4'x8' color panels for retaining walls and stucco, and samples of trim and windows; the color issues would be decided two weeks after the applicant has presented the colors; 6) colors are to be reviewed after the tanks are installed and the foundation poured but prior to framing; 7) the comment be added about providing the sewer cross country; 8) The Commission would approve a variance for the patio encroachment so the patio can be pulled away from the existing oak tree; 9) the exterior and interior lighting plan be reviewed by the Planning Director during the building permit stage.

Ayes: Wittenkeller, Duys, Cronk, Harle
Absent: Sargent, Israel, Mihaly

The audience was advised of the ten day appeal period.

2. V-9627 - Paul and Roberta Vinck, 48 DURHAM ROAD, A/P 5-202-46, a Variance to build a deck within 5' of the easterly side property line (6' required). The deck will be a maximum of 8' high from grade, located within the R-1 Zoning District. (After-The-Fact)
9:50 p.m.

Chip Griffin presented the staff report noting that this is an After-the-Fact variance.

Robert Govi, the new owner of 48 Durham Road, stated that the only issue is the cat walk which is 71'. The previous owner did get a permit for the addition and it might have been an oversight. The porch was a 27 square foot cement addition to the porch. The redwood deck is more aesthetically pleasing than the cement porch and the neighbor is in support of the project. There were windows that face the south side and respects the neighbors' privacy. The privacy issue is really his because of the addition that took place next door. The neighbor across from 48 Durham is in support of the proposal. The deck is convenient for his small children and the project is aesthetically pleasing. The owners thought it was part of another permit that was obtained for their addition.

Commissioner Wittenkeller asked if there is any hard evidence of there being a structure there previously. Mr. Govi responded that he has not had time to research it because he just moved in to the house last month.

Commissioner Duys did not have a problem with the cat walk as shown; and did not feel it creates a privacy issue with the neighbors; however, she is unable to make the findings for the variance.

Commissioner Cronk supported the project but was also unable to make the findings for approval.

Commissioner Wittenkeller concurred with his colleagues.

Commissioner Harle stated that clearly the house is within the 8' setbacks, however the deck invades the 5' setback and cannot use that argument of continuing the property line. Perhaps the Commission could use the diminimuous approach.

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M/s Duys/Wittenkeller, and passed, to approve the project as proposed, due to the diminimous nature of the cat walk. 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 materially detrimental to the public welfare or injurious to the property or improvements in such neighborhood; the nature of the catwalk will not significantly affect the neighbors as is witnessed by the letter of Roberta O'Neale, owner of 40 Durham Road.

Conditions of approval are:

1. That the variance be granted to construct a cat walk in accordance with the plans associated with the receipt of June 13, 1996, received by the Town of San Anselmo Planning Department. 2. Applicant shall apply for and pay all appropriate fees for building permits, plan checks and inspections. Applicant is subject to double fees as these are considered "after the fact" permits. 3. This permit and each condition contained herein shall be binding upon applicant and any transferor, or successor in interest. 4. If construction is not commenced within one year from the date of final action, the permit becomes 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 a request in writing to the Planning Director showing good cause prior to the expiration of the discretionary action.

Ayes: Harle, Wittenkeller, Duys

Noes: Cronk

Absent: Sargent, Israel, Mihaly

The audience was advised of the ten day appeal period.

3. V-9628 - Ted Thurgate, 291 BUTTERFIELD ROAD, A/P 5-055-04, a Variance to build a second story room addition 6' from the southerly side property line (8' setback required) on property located within the R-1 Zoning District.

Mr. Griffin presented the staff report.

Mr. Thurgate stated that the actual house is not in too bad of shape even though it was built in the 1920s. The garages are in much worse shape. The problem with the interior of the house has been improved. He wanted to use the existing foundation; on the other side where the garage is, he wants to add to the entire side and remove the foundation of the garage and is a major construction at this time. The addition looks onto a landscaped area for the neighbor and they do not object to the project. He has measured the neighboring properties and many are at the 4' side yard setback.

Commissioner Harle asked if the construction will not be built from the ground up. The owner stated that his estimates from contractors are that the foundation can remain.

Commissioner Harle asked if he considered rebuilding the structure within the setbacks. Mr. Thurgate stated that he was hopping to keep the foundation.

Commissioner Cronk stated that she has no objection to the proposal and could be considered diminimous especially with the fact there are no windows.

Commissioner Wittenkeller concurs with Commission Cronk assuming that this would have been a design review.

Mr. Griffin stated that if the garage must be removed then the garage would be required to have an administrative variance.

Ms. Wight noted that the change to design review only took into consideration a house, not a garage.

Commissioner Duys stated that she has concerns because it is a full height solid wall. Until the Town Council approves the design review policy for the 5' setback, she is unable to support this project and is unable to make the findings.

Commissioner Harle was unable to support this without the third condition until the applicant can submit a concrete stress test and structural inspection of the subject residence. The plan seems hasty and he would send this back to the applicant to determine the stability of the garage structure. He does not want this to be done piece meal. If the structure must be rebuilt, it offers the opportunity to meet the setbacks.

M/s Duys/Wittenkeller, and passed, to deny the variance based on staff's recommendation.

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Mr. Griffin stated that another proposal would be to have the applicant come in with both phase I and Phase 2 so Staff could see the entire project.

Mr. Thurgate stated that he understands that he will have to test the foundation.

Duys to withdraw

M/s Cronk/Wittenkeller, and passed, to continue the application to the meeting of 9/9/96.

Ayes: Wittenkeller, Duys, Cronk, Harle,
Absent: Sargent, Israel, Mihaly

4. V-9622 - Per Bessing, 7 MILLBRAE AVENUE, A/P 6-112-12, a parking variance in conjunction with increasing the living area of the main dwelling by improving the lower floor (Code requires 3 on-site parking spaces). Existing parking shall remain: 1) a one-car garage; and 2) a substandard size parking space on the driveway which encroaches onto the right-of-way of Millbrae Avenue (Code requires a 9' by 19' on site parking space). The third required space is proposed to be provided by constructing retaining walls up to 4' in height fronting on Sunny Drive, which necessitates a setback variance for the retaining walls to be within 0' of the side and rear property lines (Code requires a minimum of 8' from the side property lines and 20' from the rear property lines). This is on property located within the R-1 Zoning District above the 150' mean sea level elevation.

Ms. Wight presented the Staff Report, noting that the applicant has omitted the rear parking structure.

Commissioner Wittenkeller could support the staff recommendations.

Commissioner Duys could support the project with a conditional deed restriction for the lower level.

Commissioners' Cronk and Harle could support Staff's recommendation and concur about the deed restriction.

M/s Wittenkeller/Duys, and passed, to approve the proposal based on Staff recommendations with the addition of a deed restriction.

Ayes: Duys, Wittenkeller, Harle, Cronk
Absent: Sargent, Israel, Mihaly

The audience was advised of the ten day appeal period.

5. V-9630 - Mr. And Mrs. Dal Santo, 97 ELM AVENUE, A/P 7-052-33, a Variance to construct a sun room and deck 4' from the north side property line (8' required for the sun room; 6' required for the deck. The proposal is to remove the existing deck and construct a 91 square foot sun room and 221 square foot deck) at the rear of the house, on property located within the R-1 Zoning District.

This item was continued to the meeting of September 9, 1996, due to the late hour.

E. GENERAL DISCUSSION

F. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

G. ADJOURNMENT TO Monday, September 9, 1996.

The regular meeting of the San Anselmo Planning Commission was adjourned to the next meeting on September 9, 1996.

BARBARA CHAMBERS