

**TOWN OF SAN ANSELMO
RESOLUTION NO. 3212**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO APPROVING VARIANCE V-9231; FILED CONCURRENTLY WITH PRECISE DEVELOPMENT PLAN, PDP-9202; FOR THE PROPOSED ALAMEDA RESIDENCES, TO PERMIT ENCROACHMENTS WITHIN THE REQUIRED FRONT AND REAR YARD SETBACKS ON LOTS 1 AND 2; AND TO ALLOW A PARCEL WITH LESS THAN THE REQUIRED ONE (1) ACRE MINIMUM LOT AREA. ASSESSOR'S PARCEL NUMBERS 5-043-16, 5-043-22, 5-043-31, 177-133-13 AND 177-220-54.

WHEREAS, the Planning Commission of the Town of San Anselmo has considered a Variance application to allow: 1) a parking deck to be located within nine (9) feet of the rear property line on Lot 1; 2) a single family home to be located within fifteen (15) feet of the rear property line on Lot 2; 3) retaining walls over 30" in height to be constructed within the front and rear yard setbacks of Lots 1 and 2; and 4) to allow the size of Lot 1 to be less than the minimum one acre size required in the R-1-H Zoning District; and

WHEREAS, the Planning Commission held two public hearings on September 14, 1992 and October 5, 1992, for this application and has examined pertinent maps, drawings, and documents; and

WHEREAS, the Planning Commission has considered the recommendation of the Town of San Anselmo staff and members of the public; and

WHEREAS, an appeal of the Planning Commission's action was received by Roberta Stoddard who raised concerns about the stability of the proposed driveway and affect to her home on The Alameda due to the presence of an existing landslide; and

WHEREAS, the Town Council held a public hearing on this appeal on November 10, 1992; and

After receiving input from the Town of San Anselmo staff and testimony from the applicant and members of the public, the Town Council resolved as follows to:

- a) Deny the Stoddard appeal;
- b) Amend the Planning Commission-approved Resolution to add conditions relative to: an independent geotechnical review to specifically address Ms. Stoddard's landslide concern; and, the preservation of an existing 24" oak tree.

ACCORDINGLY, the Town Council of the Town of San Anselmo has made the following findings:

1. In accordance with Section 10-3.709 and Article 4 - Tables 4A and 4B, the findings required by the Town of San Anselmo Municipal Code for the granting of the variances have been made as follows:
 - (a) **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 an 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.

Lot 1 (Site F) - The constraints of this building site, namely its small size, topography and the angle created by the access road/easement, are sufficient to recognize as special circumstances, such that granting of a Variance, in this particular case, would not constitute a grant of special privileges.

Lot 2 (Site C) - The building site that was approved for this lot as part of the Preliminary Plan was selected because it is situated on an existing, level pad that will require minimal grading, and is screened by existing trees. Shifting the proposed house location to avoid encroachment into the rear yard setback would result in a more massive structure given the slope of the lot, and would result in the removal of more vegetation. When considering the desire to place the house in a location that is least visible from off-site vantage points, and the lack of alternate building locations on the site that would be acceptable, the granting of a Variance, in this particular case, would not constitute a grant of special privileges.

Retaining Walls for Tree Preservation - The existing access easement which dictates the location of the access road, and the desire to retain as many of the mature oak trees along access road as possible, constitute special circumstances that are applicable to the property, such that findings can be made in support of permitting retaining walls within the required setback area for the purpose of preserving the oak trees.

- (b) The granting of such Variance, under the circumstances of this 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 property or improvements in such neighborhood.**

Lot 1 (Site F) - The proposed house location on Lot 1 was approved as part of the Preliminary Plan because a structure at this location will be less visible than alternative building sites at higher elevations. In selecting Site F, it was recognized that a variance would likely be needed given the size, shape and topography of the lot. The proposed house location avoids the landslide zone west of the building site and has been reviewed by the project's geotechnical engineer who concluded that the proposed residence can be constructed satisfactorily from a geotechnical standpoint. Based on this conclusion, staff finds that the granting of this Variance, under the circumstances of this 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 property or improvements in such neighborhood.

Lot 2 - (Site C) - The proposed house location on Lot 2 was approved as part of the Preliminary Plan because a structure at this location will be less visible from off-site vantage points and will require less grading than other portions of the lot that have a steeper slope. The proposed house location takes advantage of an existing graded pad and avoids the large landslide zone that covers the lower portion of the site. As a result, staff finds that the granting of this Variance, under the circumstances of this 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 property or improvements in such neighborhood.

Retaining Walls for Tree Preservation - The two retaining walls proposed around the two

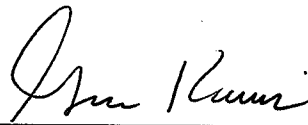
oak trees at the base of the access road are to be constructed in accordance with the recommendations contained in the geotechnical report prepared by Van Houten Consultants, dated September 12, 1989. The maximum height of the retaining walls are three and four feet. As a result, staff finds that the granting of this Variance, under the circumstances of this 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 property or improvements in such neighborhood.

PASSED AND ADOPTED by the Town Council of the Town of San Anselmo on the 8th day of December, 1992 by the following vote

AYES: Breen, Chignell, Yarish, Zaharoff, Kanis

NOES: (None)

ABSENT: (None)


Gus Kanis, Mayor

ATTEST: Caroline Foster
Caroline Foster, Town Clerk