

186 The Regular Meeting of the San Anselmo Planning Commission was called to order by Chairman Dan Goltz in the Council Chamber at 8:00 p.m. on December 1, 1975. Representing Town Staff: T. J. Robbins, Associate Engineer/Planner

1. Roll Call

Commissioners Present: Ainsworth, Bolles, Eisgrau, Goltz, Greenfield, Ragan
Commissioners Absent: Fairchild

2. APPROVAL OF MINUTES - November 10 and 17, 1975

M/S Ragan, Greenfield the minutes of November 10 be approved as prepared.
Passed unanimously.

M/S Ainsworth, Ragan to approve the minutes of November 17 as amended.
Passed unanimously.

Amendments:

Pg. 1, 3rd para. under Z-153 item (g) reworded as follows: "proposed zoning pertains to undeveloped parcels only, felt it was inequitable not to consider developed lots of the same size."

Pg. 1, 6th para. under Z-153 addition to the end of para: "...aspect which could be accommodated by the PPD feature."

Pg. 1, 7th para. end of 4th line: "...he was opposed to them the last time."

Pg. 2, 6th para. reworded as follows: "M/S Greenfield, Goltz that A/P 5-300-07 be recommended to the Town Council to be rezoned PPD/R-1/B-20 on the basis that since this particular parcel has adequate access to usable roads, this rezoning will be in conformity with the General Plan and its interest in preserving the health and safety as part of designating the density of building lots...." (Rest of motion same.)

Pg. 2, add following motion between the 7th and 8th para.: M/S Greenfield, Eisgrau to reconsider A/P 5-300-07.

Motion carried: Ayes: Ainsworth, Eisgrau, Goltz, Greenfield
Nays: Ragan, Bolles

Pg. 3, para. 3, motion - change: "Passed unanimously, Chairman Goltz voting "no" to read: "Motion carried: Ayes: Ainsworth, Bolles, Eisgrau, Greenfield, Ragan - Nays: Goltz

Pg. 3, add after para. 3 under SS-190: Commissioner Ainsworth noted that the slope policy was not applicable according to paragraph 1 of the slope policy dated June, 1972.

Pg. 4, 4th para., 2nd line to read: "...without a guarantee of low rent in accordance with the Town's General Plan."

Chairman Goltz announced that the County-wide bike plan would not be heard at tonight's meeting. It was rescheduled for discussion on December 15, 1975.

Chairman Goltz announced that he had received a letter from the Town Attorney answering the question regarding the fact that use permits/variances must be in conformance with the General Plan. It was debated by the Commission whether wording to the effect that subject application was in conformance with the General Plan and whether it should be a part of the motion.

Mr. Robbins stated that in lieu of incorporating wording into each motion for use permits stating they were not transferable, a motion could be made stating the Commission's policy.

M/S Ragan, Ainsworth that as of this date, all use permits granted by the Planning Commission will include the following wording:

"The Planning Commission further declares that the rights under this permit are personal to the applicant and are not transferable or assignable to any other person or legal entity whether such person or legal entity does or does not own a contractual or property interest in the particular property." Passed unanimously.

3. OLD BUSINESS

A. USE PERMITS/VARIANCES/SUBDIVISIONS

1. VAR-640 - RICHARD GOMEZ, 25 Avenue Del Norte, A/P 6-181-37 & 43 application for a 17.27' rearyard and 5.55' sideyard variance to allow a suana enclosure and equipment installation to remain within yard setbacks.

Applicant, Mr. Gomez, and his representative Mr. Paul Tanner (of Site Engineering) were present.

Mr. Tanner explained that Mr. Gomez was the fourth owner since this structure had been put up. Mr. Gomez had removed the suana addition which had been a nuisance to the neighborhood. He felt that if the Planning Commission made the applicant tear the structure down this would cause problems to both applicant and the immediate neighbor as it would disrupt the existing privacy.

Mr. Tanner felt the configuration of the site presented a hardship for this structure to be located anywhere else.

Mr. J. Girton, 15 Avenue Del Norte requested that this variance be denied. He stated he was surprised how long it had taken the Town to get moving on the matter of this illegal structure.

Mr. Girton stated that Mr. Presley, a renter of 19 Avenue Del Norte, had informed the Town in January of 1975 that a pool house was going up and he wondered whether a permit had been issued. Up until this time, he felt no one had done much about it.

Mr. Girton stated he has a building site near the Gomez' property and he felt the continued existence of this structure 2' from the property line would decrease the resale value of his property (for visual and privacy reasons).

Mr. Girton also felt that the granting of this variance would encourage others to ask for the same thing. In this particular case, he could not see that there were any extenuating circumstances.

Mrs. Lynn Deetken, property owner of 19 Avenue Del Norte stated the structure was nice, private, and it did not bother her at all.

Mrs. Cohn, 30 Avenue Del Norte stated she could not see how this structure bothered anyone. There was a pool house in the same location built by the original owner. The sauna, which was the nuisance, had been removed.

Mr. Robbins explained how the 3-sided structure being considered tonight had been built around the smaller one that the neighbors remembered. Its presence had come to the Town's attention early in January.

Commissioner Eisgrau was concerned about the noise level if this structure was removed. Mr. Robbins stated that if there was a problem it could be fixed by requiring insulation.

Commissioner Bolles stated that Mr. Presley had told him that he now finds, with the suana gone, the structure provided a

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a desirable screen between the two properties.

Commissioners questioned whether this structure would require a building permit and whether the structure would have to meet Code requirements. Staff stated that the structure would have to meet all building requirements.

Commissioner Ainsworth asked Mr. Girton whether or not he would be opposed to the structure if it could be built outside the 20' setback. Mr. Girton felt that with a 20' setback some of the visual impact would be eliminated.

Commissioner Ainsworth asked Mr. Girton to take into account the factor that this structure feel the same? Mr. Girton again stated that if it could be put where it was supposed to be then it should be.

Mr. Gomez stated the location of the structure was the only place that could be used to provide for some pleasure with the pool

Commissioner Greenfield was concerned whether this structure would be a gathering place for people (parties) thereby creating noise. Applicant stated "no" it was too small to gather people in it.

M/S Ainsworth, Bolles to approve VAR-640, application for a 17.27' rear yard and 5.55' side yard variance at 25 Avenue Del Norte, to allow a lanai type structure on the basis that:

1. There is an exceptional or extraordinary circumstance applying to the building and use involved in the application in that, due to the upslope on the north rear portion of the rear yard of the existing pool structure, any lanai type structure would reasonably be required to be built within the rear and side yard setback.
2. That the granting of this application is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and
3. That the granting of the application will not under the circumstances materially affect adversely the health or safety of persons residing or working in the neighborhood, be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood.

Motion carried: Ayes: Ainsworth, Bolles, Eisgrau, Goltz, Greenfield

Nays: Ragan

Commissioner Ainsworth informed Mr. Girton that although he had understood his comments, he did not agree. This was one application he could support.

Mr. Girton stated he had talked to Mr. Presley at 9:30 Sunday Evening and he was still opposed to this application. He could not understand how his mind had changed so suddenly as stated by Commissioner Bolles.

Commissioner Ragan stated for the record that he had no desire to do any damage to Mr. Gomez by voting against this application. He just felt it was time for the Town to stop allowing variances where building had been done before building permit or variance approval.

2. U-434/VAR-646 - FOTOMAT COPR., 50 Greenfield Avenue., A/P 6-251-10, application for a use permit to allow a Fotomat kiosk with a variance from the parking space requirements.

Representative of Fotomat, Susan Whitney, was present.

Ms. Whitney stated the additional 800 S.F. for parking was out of proportion for the size of their operation. Fotomat had leased 1200 S.F. and they could not obtain anymore land. They did provide for two off-street parking spaces.

Commissioner Greenfield questioned how the film was delivered and picked up. Applicant stated there would be a delivery truck -- most of the time the driver would pull up to the window.

Mr. David Strassman, 555 Sequoia Drive, stated he had a little trouble resolving this use with the General Plan. He felt that if the variance was granted (and use permit), the Commission should use its upmost control of design and signing.

Commissioner Bolles agreed regarding building design. If approved it should be closely reviewed by the Design Review Committee. He felt the proposed building was not relevant to the other parts of the property. The plot plan showed an awkward circulation and parking plan which he felt was not functional. He also felt that this proposal ran contrary to what was trying to be accomplished in San Anselmo, i.e. additional cars would be added to Lincoln Avenue which would be excessive to the residential nature of that area.

Commissioner Eisgrau agreed with Commissioner Bolles and added that another awkward situation would be cars westbound turning down Lincoln and then into the Fotomat lot.

Commissioner Greenfield could not see the approximate 60-100 cars a day coming through the Hub and swinging off to Greenfield Avenue.

Chairman Goltz agreed with Commissioner Greenfield's point. He also felt that there was a problem concerning the additional traffic this use would create on Lincoln Avenue.

M/S Greenfield, Eisgrau with regard to U-434, that the use permit be denied based on the adverse impact of the proposed application on the circulation, as contained in the Circulation Element of the General Plan. Passed unanimously.

M/S Ragan, Greenfield that VAR-646, for Fotomat Corporation, 50 Greenfield Avenue, A/P 6-251-10, be denied on the basis that the use permit 434 has already been denied. Passed unanimously.

3. VAR-639 - A. & H. PAUL, 169 The Alameda, A/P 5-101-10, application for a parking variance to allow the existing enclosed garage to remain for living space.

Mrs. Helen Paul and her son-in-law were present. Applicants stated they were requesting this variance in order to avoid putting in an additional driveway and parking slab. Applicants did not own a car. The garage had been remodeled by the applicant without a permit only because they did not realize a permit was needed. There had been no structural changes - only sheet rocking.

In June of 1976, when applicant's husband would retire, they would move into the house. As of this date the house was leased to a young couple who both had vehicles.

Commissioner Greenfield suggested a way of avoiding so much concrete would be to remove the existing parking slab (driveway) before putting in the new one.

No one was present in the audience to comment on this application.

Commissioner Ragan felt there was no need for a variance as Staff had pointed out there was parking space without a variances.

Commissioner Bolles stated that in one sense he agreed with Commissioner Ragan, but he was also in favor of protecting the

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foliage between the houses. There would be two driveways right next to each other which would look horrendous.

Commissioner Bolles felt the next door neighbor may also have something to say about the driveway -- it would destroy his pyracantha bush. Commissioner Bolles felt having driveways side-by-side would be very unattractive.

As a hardship, Commissioner Bolles felt the maturity of the vegetation would justify the variance. He felt that cutting away the vegetation and putting parking in the rear would be more detrimental than passing the variance and leaving well enough alone.

Commissioner Ainsworth agreed with Commissioner Ragan's viewpoint. He felt there simply was not something unique which would require parking in the front setback. The reason for the problem was due to the unlawful elimination of one of the parking spaces.

Commissioner Bolles stated he resented the implications that taking down the trees and bushes would not affect the community. He liked the trees and bushes, and he felt the Commission was requiring something to be taken out for which they all fought to preserve.

M/S Ragan, Ainsworth that VAR-639, application for an 18' frontyard variance at 169 The Alameda, as a replacement parking space for a previously converted garage be denied on the basis that no site hardship exists in providing this replacement parking space to the rear of the building, and without a variance. Passed unanimously.

4. VAR-644 - R. & J. LOMBARDI, 81 Angela Ave., 0' sideyard setback to construct a carport attached on one wall of the garage and covered with fiberglass panels.

Applicants were present. Applicants stated they have three cars. One neighbor (who was in favor of the application) had attended the meeting, but had to leave because of the late hour.

Commissioner Ragan felt the two cars could be parked in the garage.

Commissioner Greenfield questioned the purpose of the structure. Applicants stated it was for keeping the sap and leaves from the trees off their car and in the surrounding area.

Commissioner Greenfield asked whether this carport was for the purpose of more room to allow applicant to work on his car. Applicant stated "no".

M/S Ainsworth, Bolles to approve VAR-644, application for an 8' sideyard variance at 81 Angela Avenue, A/P 5-022-37, to allow a previously constructed carport to remain on the grounds that:

1. There are exceptional or extraordinary circumstances or conditions applying to the land, building, use referred to in the application due to the fact that additional covered parking should most reasonably be located adjacent to the existing garage. Further, that due to the unusual aspect that, even with a 0' frontyard setback there remains an 8' undeveloped space between the carport and an edge of the street;
2. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and

- 3. That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood and will not under the circumstances be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood.
- 4. Provided, however, that the structure be referred to Design Review for approval.

Motion failed: Ayes: Ainsworth, Bolles
 Nays: Eisgrau, Greenfield, Ragan
 Abstain: Goltz

4. NEW BUSINESS

A. USE PERMITS/VARIANCES/SUBDIVISIONS

- 1. U-436 - F.W. MOSDEN, 1525 and 1527 San Anselmo Ave., A/P 7-014-21, application to use portion of building as a shop with the secondary use of living quarters in a commercial area.

Mr. Mosden, applicant, was present. He submitted a letter from Mrs. Lewis of 1623 San Anselmo Avenue which stated that any tenant at 1527 San Anselmo Avenue was at liberty to park their car in front of her home at 1623 San Anselmo Avenue.

Mr. Mosden stated his son has a workshop at 1527 San Anselmo Ave. They have had several robberies and they felt it would be better security if someone lived on the premises.

Commissioner Ragan commented on the magnificent refinishing job Mr. Mosden had done on this property. He had no objections to this application.

M/S Ainsworth, Ragan to approve U-436, use permit for living quarters secondary to a commercial use for F.W. Mosden at 1525 and 1527 San Anselmo Avenue, A/P 7-014-21, on the basis that this will not be detrimental to the neighborhood and is necessary for affording substantial property rights by providing a measure of security for the commercial operations at 1525 and 1527 San Anselmo Avenue, with the condition that applicant provide proof of at least one off-street parking space in the vicinity of the property satisfactory to the Planning Director. Passed unanimously.

- 2. U-437 - MICHAEL LIEBEN, 249 Redwood Rd., A/P 7-096-01, home occupation of bead stringing, occasional casting and lapidary work.

Applicants were present. There were no objections to this application.

M/S Ragan, Ainsworth to approve U-437 for Michael Lieben at 249 Redwood Rd., A/P 7-096-01, application for home occupation to continue a home occupation of bead stringing, occasional casting and lapidary work on the basis that this use is not detrimental to the neighborhood as no additional traffic or parking requirements are generated and that approval is necessary to afford property rights by allowing a reasonable use at this location. Passed unanimously.

- 3. U-438 - DR. & MRS. R. D. BEEMAN, 112 Jordan Ave., A/P 6-144-23, application permitting the continued use of a mail order office as a home occupation.

Applicants were present.

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Dr. Beeman explained how he and his wife imported air guns from Europe. He stated they had no criminal use or value. With the lack of places where guns can be fired these days, the business of selling air guns was flourishing. The guns could safely be fired at a target in the home.

The traffic problems on Jordan Avenue were, as Dr. Beeman felt, due to construction work being done on his house.

Dr. Beeman stated the business had grown to such an extent they had rented a warehouse in the Northgate Industrial Center. Any traffic problems that might have occurred would now be out in San Rafael.

Mr. Lapidus, 109 Jordan Ave. had written a letter in support of Dr. Beeman's operation.

The meeting was opened to the audience.

Mr. Bradac, 144 Jordan Ave. questioned whether Dr. Beeman wasn't actually establishing a commercial zone in a residential zone as his application had indicated he intended to manufacture/repair/service these guns in his home.

Mr. Curran, 111 Jordan Ave. questioned the nature of the business. What would the volume be? What process took place in the home? Did Dr. Beeman get crude material? Were the guns assembled or just wrapped for shipment?

Mr. Curran felt the product itself created a reaction. What kind of burglary attention was brought to the neighborhood?

Mr. Wayne Vanderbilt, 115 Jordan Ave., stated if the permit was granted there should only be one employee

Others feeling this application caused similar problems as those persons listed above were: Mr. Wm. Niemann, 153 Jordan Ave.; Ms. Nickerson, 9 Alpine Lane; Mrs. Carol Reyes; 114 Jordan Ave. (who also added this use was against her morals and counter to what she believed in); Mr. Peter Skaer, 105 Jordan Ave.; Mr. Truax, 110 Jordan Ave.; Mr. Ray Crawford, 143 Jordan Ave.; and Mr. T. Wright of 136 Jordan Ave. Mr. Wright also noted that Field & Stream Magazine advertised these guns using hunting pellets for killing fowl. He questioned how this went along with the idea that these guns were so safe.

Commissioner Ainsworth stated there was no question the applicant was doing something he could not do -- employ four people. However, this did not mean applicant couldn't have a use permit in accordance with the Code.

Commissioner Bolles felt even the word "gun" was upsetting. He felt he could not vote for a use permit based on Section 10-3.2004 of the Code which states the Commission shall find the use will not be "...detrimental to the health, safety, peace, morals, comfort and general welfare of persons in the neighborhood."

Commissioner Greenfield was in agreement with Commissioner Bolles. He was also troubled by the fact that this business had grown large enough that a warehouse was needed.

Commissioner Ragan and Chairman Goltz agreed with Commissioners Bolles and Greenfield.

M/S Greenfield, Ragan to deny U-438, application for a home occupation of mail order business selling air guns for Dr. and Mrs. R. D. Beeman, 112 Jordan Ave., A/P 6-144-23, on the basis that this use is detrimental to people and property in the neighborhood and because of the size and magnitude of the operation it no longer falls into the category of a home occupation.

Motion carried: Ayes: Bolles, Eisgrau, Goltz, Greenfield, Ragan
Navs: Ainsworth

(Applicant was given 60 days to remove the business from his home.)

- 4. VAR-645 - M.C. BAIRD, M.D., 103 Butterfield Rd., A/P 5-071-34, application for a 5' sideyard variance to extend the existing dining room.

As announced earlier in the meeting this application was withdrawn at the applicant's request.

- 5. SS-192 - LAYMAN LAND DIVISION, 379 and 395 Oak Avenue, A/P's 7-241-40, 41, 42 and 46, application to subdivide four parcels into two.

Mr. Nick Toussaint, Bank of California - Trust Dept. for Dr. Layman; Mr. Hoehler, lawyer; Mr. Berini of Site Engineering; and Mr. Charles Hallenberg were present.

Mr. Toussaint explained that this subdivision was a "testimony distribution". He requested that the Commission consider removing the condition requiring the asphalt overlay as this required returning to probate court. This would case a great deal of hardship.

Commissioner Bolles agreed the request for improvements was unfair. He considered this application more of a lot line revision.

M/S Ragan, Ainsworth to recommend to the Town Council that SS-192, subdivision of A/P's 7-241-40, 41, 42 and 46 be approved based on Parcel Map dated 11/13/75 by Site Engineering, with the provision that the applicant will improve that portion (namely Parcel A and Parcel B) of Oak Avenue fronting this property which will consist of a 2" overlay over the present width of Oak Avenue and a rolled-in asphalt gutter in lieu of concrete curb and gutter. Also that the provision of sidewalks are impractical in this location and that this improvement should therefore be waived.

Further recommend that requirements be waived of concrete curb and gutter since asphalt will serve in lieu thereof.

Motion carried: Ayes: Ainsworth, Goltz, Ragan
 Nays: Bolles, Greenfield
 Abstain: Eisgrau

Commissioner Bolles stated he would not support this application because he believed it was outrageous to require the paving to provide for one house. This would cost an incredible amount of money, he felt it was an unbelievable penalty and he was upset about it.

Commissioner Greenfield stated he was against it based on the length of the road requirement.

5. MATTERS FOR CONSIDERATION

- A. U-382 - RICHARD DYE, 1214-A San Anselmo Ave., consideration of revocation of use permit allowing a commercial winery.

Applicant and his landlord were present.

M/S Ragan, Eisgrau that U-382 for Richard B. Dye (Grand Pacific Vineyard Co.), 1214 San Anselmo Ave., A/P 7-051-21 be amended to include the following stipulation:

- 1. That there be no crushing and/or pressing of grapes on the exterior of the premises.

Passed unanimously.


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Staff was requested to check into the possibility of providing the Commissioners with business cards.

6. ADJOURN

Meeting adjourned at 1:30 a.m. until the Workshop Meeting of December 15, 1975.

DAN GOLTZ, CHAIRMAN
SAN ANSELMO PLANNING COMMISSION

By 
Catherine Carpenter
Planning Secretary