

The Regular Meeting of the San Anselmo Planning Commission was called to order by Chairman Dan Goltz at 8:00 p.m. in the Town Hall on November 3, 1975. Representing Town Staff: T. J. Robbins, Associate Engineer/Planner

1. ROLL CALL

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

2. APPROVAL OF MINUTES -- OCTOBER 20, 1975

M/S Ragan, Ainsworth the minutes be approved as amended. Passed unanimously, Commissioner Eisgrau abstaining.

Pg. 3, 9th para from top, 3rd line: Correct spelling of "pice" to "piece".

Pg. 4, first word in 5th line of first motion to read: "tenence" rather than "

Pg. 4, first motion, change Ainsworth's vote from "aye" to "nay".

Before continuing on with agenda, Chairman Goltz announced that Variance-638 had been held over until the December 1st meeting, Use Permit 433, Variance-640, and Subdivision SS-190 would all be hear on November 17th as agreed to by applicants.

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OLD BUSINESS

1. PUBLIC HEARING

a. Z-153 - Planning Commission initiated Proposed Rezoning of the undeveloped property known as A/P 7-201-06 from R-1 to PPD/R-1/B-? (Density to be determined). This parcel had been held over from the October 20th meeting by the Planning Commission.

As no one was present in the audience to comment on this item, and due to the lack of a full commission, the public hearing was continued until November 17th

2. USE PERMITS/VARIANCES/SUBDIVISIONS

a. Variance-637 - John Slattery, 50 Ash Ave., A/P 5-194-42, application for a 5'6" sideyard and 12' rearyard variance to construct two 2-bedroom dwelling units.

Applicant, Mr. John Slattery and his architect, Mr. McVickers were present.

Commission suggested a parking space size variance rather than the requested 5'6" sideyard variance. The parking space size variance would result in a 1'6" sideyard variance.

Commission felt there was no site hardship which would justify the rearyard variance request.

M/S Ainsworth, Ragan to approve VAR-637, application for a maximum of 1'6" sideyard variance on the east side of the lot at 50 Ash Avenue, A/P 5-194-42, and a 1' variance in the width of required parking spaces for the reason that the narrow width of the lot, together with the angle of the west side of the lot provides unuseable space on the west side of the lot creating encroachment into the east sideyard in order to permit four parking spaces abreast. The granting of this variance is necessary for the preservation and enjoyment of substantial property rights, and the granting 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 be materially detrimental to the public welfare.

Motion carried: Ayes: Ainsworth, Eisgrau, Fairchild, Goltz, Ragan
Nays: None

M/S Ragan, Ainsworth that VAR-637 for John Slattery, 50 Ash Ave., A/P 5-194-42, Zoned R-2, application for a 12' rearyard variance to construct two 2-bedroom dwelling units be denied on the grounds that there is no hardship as defined under the Municipal Code.

Motion carried: Ayes: Ainsworth, Eisgrau, Fairchild, Goltz, Ragan
Nays: None

- b. Variance-638 - T.M. & L.E. Looper, 169 Oak Ave., A/P 7-271-03, application for an 8'6" frontyard setback to allow a pool and elevated deck to be constructed within 11'6" of the front property line.

This item was continued until December 1, 1975.

- c. Subdivision - SS-189 - Stuart Mercereau/Charles English, 33 and 31 Skyline Rd., A/P's 5-082-28 and 5-082-27, application for lot line revision to remove an existing encroachment.

Mrs. Mercereau was present. Mr. Charles English could not be present, but Staff had received a letter from him stating he approved of this application.

M/S Ragan, Ainsworth to approve SS-189, application for a lot line revision between No. 31 Skyline Rd. (A/P 5-082-28) and No. 33 Skyline Rd. (A/P 5-082-27) as shown on Tentative Map dated July 1975 by Hool and Lockett, on the basis that this lot line revision conforms to the Municipal Code requirements in Section 10-2.707.

Motion carried: Ayes: Ainsworth, Eisgrau, Fairchild, Goltz, Ragan
Nays: None

D. NEW BUSINESS

1. USE PERMITS/ VARIANCES/SUBDIVISIONS

Before continuing with the agenda, Chairman Goltz announced that along with each motion for use permits mention of the fact that use permits are not transferable had to be made.

Commissioner Ainsworth suggested that perhaps the Commission could resolve the necessity of informing applicant's that use permits were not transferable by making a motion stating it was the Commission's policy that use permits are not transferable. Another suggestion was making an amendment to the ordinance.

Commission directed Staff to ask Town Attorney if there was any feasibility of changing the ordinance. Commission questioned whether they could make a blanket statement to cover the non-transferability of use permits with one motion.

- a. Use Permit-430 - Lothar Salin, 147 Scenic Ave., A/P 7-064-11, application to permit a counseling office as a home occupation.

Applicant was present. Staff had nothing further to add to Staff Memo.

M/M Wm. Hoenes and M/M Cheney, 130 and 123 Scenic Ave., respectively, were present. If there were large groups expected at Mr. Salin's home then they objected to any possible parking problem.

M/S Ragan, Ainsworth that U-430, 147 Scenic Ave., A/P 7-064-11, Lothar Salin, application to permit a home occupation for the purpose of marriage/family counseling, be approved on the basis that this use will not be detrimental to people or property in the neighborhood; that the granting of the use permit will not significantly effect neighborhood conditions due to the fact that there is on-site parking for several clients and that there will be little noise in connection with the operation of a home counseling office with the stipulation that there will be no more than three cars parked at any one time for the purpose of this counseling occupation.

The Planning Commission further declares that the rights granted 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.

Motion carried: Ayes: Ainsworth, Eisgrau, Fairchild, Ragan
Nays: None
Abstain: Goltz

- b. Use Permit-431 - Richard and Grace Jewett, 300 Sir Francis Drake Blvd., A/P 7-251-01, application to permit the on-sale business of selling beer and wine.

Applicants were present. Staff had nothing further to add.

M/S Ragan, Eisgrau that U-431, 300 Sir Francis Drake Blvd., A/P 7-251-01, Richard and Grace Jewett, application for a use permit to operate a business involving the on-site sale and consumption of beer and wine, be approved on the basis that this use will not be detrimental to people or property in the neighborhood with the condition that:

1. There will be no live amplified music;
2. This permit will be reviewed within 6-months to determine as to whether or not the use is compatible with the neighborhood or as to whether or not applicant is complying with conditions set up in permit.

The Planning Commission declares that the rights granted 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.

Motion carried: Ayes: Ainsworth, Eisgrau, Fairchild, Goltz, Ragan
Nays: None

- c. Use Permit-432 - Frank Howard Allen, 1355 Sir Francis Drake Blvd., A/P 5-195-03, application to permit real estate office.

Mr. Robert Grime, President of Frank Howard Allen and Mr. Robert Adams were present.

Staff had nothing further to add to the Staff Report.

M/S Ainsworth, Ragan that U-432, Frank Howard Allen & Co., 1355 Sir Francis Drake Blvd., A/P 5-195-03, application for a use permit to operate a real estate business in an R-3 Zone be approved.

The Commission finds that the granting of this use permit will not be a detriment to the surrounding area and neighbors or persons in the area because it provides adequate off-street parking and has operated the same use for many years without objections. The granting of this use permit will also allow reasonable use of substantial property rights.

The Planning Commission declares that the rights granted under this permit are personal to the applicant and are not transferable.

Motion carried: Ayes: Ainsworth, Eisgrau, Fairchild, Goltz, Ragan
Nays: None

- d. Use Permit-433 - Hugh Campbell, 79 Lincoln Ave., A/P 7-254-24, application for a use permit to allow the renting of two rooms. This application is in conjunction with and dependent upon approval of Subdivision SS-190 for Woodrow Capurro, 79 Lincoln Ave., an application to subdivide A/P 6-254-24, 6-254-25 and 6-254-23 from 2 1/2 lots into 2 lots with exceptions to the subdivision ordinance.

These applications were continued until November 17th.

- e. Use Permit-434 - Fotomat Corp., 50 Greenfield Ave., A/P 6-251-10, application to permit a drive thru photo shop.

Applicant, Susan Whitney was present.

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Staff stated that if this application was approved, Fotomat would be required to go through a subdivision. It was not done at this time because of the expense.

Ms. Whitney stated that this was a short term lease. She stated that the Town has the option to waive subdivision requirement for less than 400 S.F.

Commission felt it was difficult to discuss the use permit without concentrating on the subdivision at the same time.

Chairman Goltz felt he could not see giving a use permit. This property was affected by the Scenic (Parkway) Highway Element of the General Plan. He wanted to see the traffic pattern for this operation. He felt this application was inconsistent with the General Plan. He could not see adding additional traffic to Lincoln Ave.

M/S Fairchild, Eisgrau to return U-434, application for a Fotomat installation at 50 Greenfield Ave., A/P 6-251-10 until such time as the subdivision, if any, plan is submitted to the Planning Commission.

Motion carried: Ayes: Ainsworth, Eisgrau, Fairchild, Goltz
Nays: Ragan

Staff was instructed to check with the Town Attorney as to the interpretation Section 10-2.701 of the Municipal Code whether a subdivision should be required. Also check into who could waive requirement for a parcel map.

Applicant requested that a copy of the subdivision ordinance be sent to her.

- f. Use Permit 435 - Marin Para-Medical Services, Inc., 101 San Anselmo Ave., A/P 7-301-20, application to permit the retail sale and rental of medical supply equipment and a private ambulance service.

Applicant Mr. White was present.

Applicant stated that this location would replace the previous location of the Bay Cities Ambulance Co. on Miracle Mile.

At the 101 San Anselmo Ave. location the ambulance, when stationed at that address, would exit on to Belle Ave., turn right on San Anselmo Ave., go to Bolinas, turn left and then another left turn on to Sir Francis Drake Blvd. Sirens would not be used unless traffic conditions warranted such action.

Mr. Paul Nyland, 14 Prospect Ave. was against this application. He felt this would create further dangers for the school children crossing Sir Francis Drake Blvd. at Ross Ave. He was also against the expected noise from this operation.

Mrs. Pat Burton was also concerned about this application. She felt the character of the neighborhood was not being maintained, but downgraded. Although she did not question the humanitarian aspects of this application, she felt the Bay Cities Ambulance Co. could better serve Marin County if they were located more toward Fairfax.

Commissioner Eisgrau questioned applicant as to the speeds the ambulance drivers would attain. Applicant stated that the speeds were controlled by the Highway Patrol. They could go no more than 10 mph over the posted speed limit, or as governed by the Basic Speed Law.

Commissioner Fairchild stated that while she respected the concerns of the audience she could not see how there was a lessening of traffic safety with the ambulances proposed location. She could not see any change to the safety of the pedestrian to warrant rejection of the use permit.

Commissioner Eisgrau stated she had a great deal of respect for ambulance drivers. Any problem she would have concerning the traffic would be the people pulling over for the ambulance.

Commissioner Eisgrau agreed it would be a good idea to have a 6 month review of this application. She felt the location of this use was a logical one and was definitely an asset.

Commissioner Ainsworth stated he was surprised at the opposition to this application. While he felt the points that were brought up by the members in the audience were valid, he still felt this was a desirable operation in the community and that any hazard or nuisance would be dealt with in the 6-month review.

Chairman Goltz stated he had a problem with the noise that would be created. He was also bothered by the ambulances going through the Bolinas intersection. He felt that was one flaw in the circulation pattern.

Mrs. Tracy of Mariposa Ave. felt the Commission, by approving this application, was getting into a sticky situation later on with the people affected by the siren.

M/S Ragan, Fairchild that U-435, Marin Para-Medical Services, dba Bay Cities Ambulance Co. and United Medical Supply, A/P 7-301-20, 101 San Anselmo Ave., application for a use permit for the operation of an ambulance service be approved with the following stipulation:

1. That a maximum of 3 ambulances operate from the site.
2. That the use of sirens and flashing lights be kept to a minimum.
3. That a landscaping, access, and parking plan be submitted for the approval of the Design Review Committee.
4. That the permit be reviewed in 6-months, or earlier on receipt of recognized complaints.

The Commission finds that a granting of a Use Permit will not adversely affect the property or improvement of the surrounding area on the basis that noise, in the immediate neighborhood resulting from the operation should be minimal.

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

Motion carried: Ayes: Ainsworth, Eisgrau, Fairchild, Ragan
Nays: Goltz

- g. Variance-640 - Richard Gomez, Applicant/Owner, 25 Avenue Del Norte, A/P 6-181-37 and 43, application for a 2.45 sideyard and 2.73 rearyard setback to allow the continued existence of a pool house enclosure.

This application was continued until the November 17th meeting.

- h. Variance-641 - Marty Kent, 72 Mariposa Ave., A/P 7-284-46, application for a variance from the parking requirements.

Applicant was present.

Mrs. Kent explained that she never would have bought this duplex if she had known that the garage had been illegally turned into a bedroom. She was sold a 6-bedroom unit. If made to remove the illegal bedroom she would never be able to sell property for what she bought it at. The Town's Building Inspector had not reported this illegality in his Residential Building Report.

Commissioner Ainsworth stated he couldn't see why this was not an abatement problem. He felt the idea of legalizing illegal, non-conforming uses by variance was inappropriate.

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Commissioner Ainsworth felt he would be unable to find the variance requirements. He felt to approve this application would be bad policy.

M/S Fairchild, Ragan to approve VAR-641, application for a 14' rearyard and 3' sideyard variance and variance from requirement of four parking spaces for Marty Kent, 72 Mariposa Ave.,

A/P 7-284-46, because there are exceptional and extraordinary circumstances applying to the land, namely that due to the size of the lot in an established multi-residential area and the unusual shape, standard parking within setbacks is not readily available, that the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and 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 or the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood.

Motion failed: Ayes: Fairchild, Ragan
Nays: Ainsworth, Eisgrau, Goltz

- i. Variance-642 - Kenneth Overman, 50 Mariposa Ave., A/P 7-284-30, application for a 4' rearyard and 4' sideyard setback to construct a garage/workshop.

Applicant was present and had received Staff Report.

A majority of the Commissioners agreed that while applicant's request might be the best location for a garage/workshop, the variance would give him something he was not entitled to under the Code. It was felt that the light and air would be reduced from adjoining property, and despite the location of the trees, applicant could locate this garage/workshop without requesting a variance (i.e. anywhere behind the house).

M/S Ainsworth, Eisgrau that VAR-642, 50 Mariposa Ave., A/P 7-284-30, application for a 16' rearyard and 4' sideyard variance be denied for the reason that the conditions required for granting of a variance are not present. Also on the grounds that there is not a site hardship for the reason that the proposed improvement could be located immediately behind the existing house without causing removal of trees and for the reason that placing proposed improvement within the rearyard setback would eliminate light and air of the property adjoining the rear property line.

Motion carried: Ayes: Ainsworth, Eisgrau, Fairchild, Goltz
Nays: Ragan

- j. Subdivision - SS-191 - H.J. & C. J. Susser, 168 Hilldale Dr., A/P 6-144-56, application for a subdivision with exceptions to the subdivision ordinance.

Applicant was present.

Staff stated that their earlier received protest was officially withdrawn. There being no protest to the Negative Declaration, an Environmental Impact Report would not be required.

Mr. Paul Tanner, Site Engineering, stated he felt the lot met the slope policy requirements. The Susser's had not obtained a water meter, but they were in hopes it would be available in the near future.

Mr. Tanner stated that there would be site problems. There were several springs in the area.

Chairman Goltz questioned what area this property fell into on the Health and Safety Map. It fell into Zone 3.

Mrs. Susser commented that regarding the common driveway she would legally want to be responsible for it.

A resident at 153 Jordan Ave., stated this lot was directly above his. He wanted to be certain a soils report would be done.

Chairman Goltz questioned the slope policy. Lots exceeding a 40% slope should be individually examined, which would give the Commission the flexibility to say what was a reasonable amount of land for the slope.

Commissioner Fairchild expressed concern over the lack of a water meter. Although she did not doubt applicant would wait to build until they had water, the City of Tiburon's experience with a resident proceeding with his building prior to obtaining water caused some concern for her.

M/S Fairchild, Eisgrau that at the applicant's request, SS-191, Susser Land Division, A/P 6-144-56, presently known as 168 Hilldale Dr. be continued for 90 days.

Motion carried: Ayes: Ainsworth, Eisgrau, Fairchild, Goltz

Commissioner Ragan had excused himself at the start of this application.

Chairman Goltz stated he would like two items placed on the agenda for discussion.

- 1. Question to Town Attorney: Does the Planning Commission's action on Use Permits and variances have to be in conformance with the General Plan? Does the Planning Commission have to say that it is in conformance with the General Plan.
- 2. For the December 1st agenda, discuss idea of putting half of the first month's meeting over for second meeting. This would reduce the length of the agenda and the late hours.

E. OTHER MATTERS FOR CONSIDERATION

- 1. Referral of General Plan Revision from Town Council (Specifically wording additions and changes to the Housing Element).

Planning Commission decided to hold a special meeting, to be held Monday, Nov. 10th from 7:30-9:30, on this item.

F. ADJOURN

Meeting adjourned 1:30 a.m.

DAN GOLTZ, CHAIRMAN
SAN ANSELMO PLANNING COMMISSION

By Catherine Carpenter
Catherine Carpenter
Planning Secretary

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