

The Regular Meeting of the San Anselmo Planning Commission was called to order by Chairman David Ainsworth in the Council Chambers at 8:00 p.m. on May 17, 1976
 Representing Town Staff: T. J. Robbins, Associate Engineer/Planner,
 C. R. Leitzell, P. E., Director of Public Works/Planning

1. ROLL CALL

Commissioners Present: Ainsworth, Goltz (arrived late), Greenfield,
 Fairchild, Ragan

Commissioners Absent: Bolles, Eisgrau

2. APPROVAL OF MINUTES - MAY 3, 1976

Chairman Ainsworth moved for the adoption of the May 3rd minutes.
 Commissioner Ragan seconded the motion. Passed unanimously, Commissioner Fairchild abstaining.

3. OLD BUSINESS

A. USE PERMITS/VARIANCES

1. VAR-667 - Henry Van Dyke, Jr., 16 Foothill Rd., A/P 7-033-05,
 application to increase a previously approved 3'6" south side
 yard variance by 0'6" to allow extension of bathroom.

Applicant was present and had received Staff Report.

There were no questions by the Commissioners of this application,
 and no one was present in the audience to comment.

M/S Ragan, Fairchild to approve VAR-667 for a 4' south side yard
 variance (this is an increase of 0'6" over a previously approved
 variance) for a bathroom addition at 16 Foothill Rd.,
 A/P 7-033-05, as shown on drawing by owner, Mr. Henry Van Dyke, Jr.,
 and dated 4/30/76, on the basis that unusual circumstances exist
 in this case not prevalent in the neighborhood in the narrow
 width of the lot and a building hardship exists in the small
 5' x 7' bathroom, that this will not affect the neighborhood in
 regards to light or air, and is necessary to enjoy property rights
 in a reasonable building extension.

Further move to correct an error in the original motion for
 VAR-632 to change the 6'6" variance to 3'6".

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

(Commissioner Goltz arrived.)

Applicant was advised of the 10-day appeal period.

2. VAR-650-A - Dr. Wm. Scalapino, parcel located between 248 and
250 Redwood Rd., application for access by easement for the
construction of a single family dwelling and a 20' variance for
the driveway ramp.

Applicant was present and had received Staff Report. Applicant's
 architect, Morris Finisey, was also present.

Morris Finisey explained to the Commission that he was the
 architect back in 1973 for the house at 248 Redwood Rd. The
 drawing before the Commissioners is a preliminary design. It
 involves little grading (except for the foundation). He stated
 the turnaround which encroached into the setbacks could be
 redesigned so as not to encroach.

Mr. Gene DePrado, 248 Redwood Rd. stated that years ago he had
 tried to get an agreement for a common driveway with Dr. Scalapino.
 Several letters were sent to Dr. Scalapino which were ignored.
 Since there was no answer, Mr. DePrado stated they went ahead on
 their own as best they could.

Mr. DePrado stated he was opposed to this application for several
 reasons: Bad and busy corner; there would be 150' of asphalt
 driveway (with about 15 cars in that span); he would lose the
 pleasure and use of his place due to proposed driveway; would lose
 some parking; ramp would be 7'-8' high and would be above his
 bedroom window; a large number of trees would be removed.

Gay Kagy, 280 Redwood Rd. opposed this application because of the hazardous corner and traffic on Redwood Rd. She felt the street was already overburdened.

Donald Penny, 250 Redwood Rd. agreed with Mr. DePrado's comments. It is a very congested area. He also opposed having to look down at the house.

Mr. Chemotti, 180 Floribel questioned how many trees were going to be cut down. He was concerned with the possibility of erosion.

Commissioner Fairchild questioned the architect as to how the tree removal would affect the stability of the land. Mr. Finisey felt that the tree removal would not have a significant effect.

Mr. Pontius, 182 Floribel was concerned about water seepage. He also questioned the removal of trees and how they related to the Heritage Tree Ordinance.

Commissioner Greenfield questioned the drainage, and whether the beams would have a damming effect to the runoff.

Mr. Pontius stated he was also concerned about not being able to carry the additional water coming off Dr. Scalapino's lot as he could hardly handle his own.

Dr. Scalapino expressed his wish that the Commission grant his variance to enable him to build. He has paid taxes on this lot and he would like to build. He stated that two years ago he supported Mr. DePrado's application.

Commissioner Ragan felt this property was very difficult site to build on. He was concerned about the terrain. He felt the effect would eventually be disastrous. He could not vote for it.

Commissioner Greenfield stated he appreciated the objections of the neighbors, but he was troubled by the fact that the applicant has a large piece of property, he wants to build his home on it and he has tried his best to remedy any objections. If the building was constructed under close scrutiny of the Staff he would be persuaded to vote for the variance.

Commissioner Goltz felt that this piece of property did have an unusual condition to the land. There was no approach from either Allyn Avenue or Redwood Rd. without a variance. In examining this variance application based on the conditions necessary to grant a variance, Commissioner Goltz felt the applicant did meet the first two criteria. However, the third criterion states the Commission must find there is no condition created by the variance detrimental to people in the neighborhood. He felt very strongly that the condition was not being met and for that reason he would not vote for it. If there was another way to make the driveway lower and to make it reasonable for driving up without making it unsafe on the street he would then vote for it.

Commissioner Greenfield stated that if Mr. DePrado at 24 Redwood Rd. was aware of the fact that there would be at some time a building on Dr. Scalapino's lot, then he did not agree with Commissioner Goltz' objections to the variance concerning detriment to the people in the neighborhood, particularly in relation to ruining Mr. DePrado's privacy.

Commissioner Fairchild stated she had examined the property several times. She could not find that all three criteria required for granting the variance were met. Especially with respect to affecting the health and safety of persons in the neighborhood. She also felt there were problems with circulation, a direct conflict to the Circulation Element of the General Plan.

Commissioner Fairchild stated she intended to vote against the application and suggested to the applicant that he approach

the neighbors to ask if they wished to purchase his property.

Dr. Scalapino stated he had not had any offers from his neighbors concerning the purchase of his property. He felt the criteria for granting a variance had been satisfied, he had gone to the extra expense of providing a turnaround he stated that the architect had advised Mr. DePrado not to put windows in the area facing the now proposed driveway.

Chairman Ainsworth stated he felt this was an insoluble problem due to the problem of access. The Commission should consider whether access should come from Redwood Rd. or from Allyn Avenue. Chairman Ainsworth felt there was no disagreement regarding the unusual circumstances of this lot. The debate centered around the possibility that approval would be detrimental to the health and welfare of the neighbors.

Chairman Ainsworth agreed the driveway structure would be detrimental to Mr. DePrado's privacy as it came close to his bedroom window. However, since Mr. DePrado bought his lot burdened by this easement to the adjacent property, he was on notice that construction would happen sometime.

Chairman Ainsworth felt that while the circulation was not being enhanced by adding additional traffic, the alternative on Floribel and Allyn was worse. The Commission had a choice between two bad situations. His decision was to be based on which road was better for access. The sideyard variance requested by the present proposal was not necessary, but he was in favor of access being from Redwood Road.

Mr. DePrado stated he was aware of the fact there would be a house built on Dr. Scalapino's lot in the future. However, he stated again that on three different occasions they tried to reach Dr. Scalapino to work out a joint solution. He would be willing to buy the lot if reasonable.

M/S Goltz, Ragan that VAR-650-A for Dr. Wm. Scalapino, A/P 7-095-30, between 248 and 250 Redwood Rd., be denied on the basis that it does not meet the requirements set forth in Section 10-3.2102(a) (3) of the San Anselmo Municipal Code.

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

Applicant was advised of his right to appeal the Commission's decision within 10-days.

3. VAR-661 - Frederick Roscoe, 35 Entrata, A/P 6-241-30, application for a variance from a maximum height of 6' for fence and hedge to allow an existing fence and hedge varying in height from 6'5" to 10' high to remain.

M/S Goltz, Ragan that VAR-661 for Frederick Roscoe, 35 Entrata, A/P 6-241-30 be continued until June 7, 1976. Passed unanimously.

Chairman requested the Commission take a few minutes to discuss the rezoning come up later in the meeting. He stated some of the Commissioners had expressed a desire to have more time to look at the parcels. Also, by the time the rezoning came up for discussion it would be quite late. Chairman questioned whether there was anyone in the audience who was opposed to postponing the rezoning. There were no objections.

M/S Goltz, Ragan that the Planning Commission postpone the Public Hearing on Z-154 to June 21, 1976 at 8:00 P.M. Passed unanimously.

Commission requested Staff prepare a map showing all properties to be considered for the rezoning. Commission also requested that the Public Hearing be advertised in the Ross Valley Reporter and notices be sent out to the property owners again.

4. NEW BUSINESS

A. USE PERMITS/VARIANCES

1. U-449 - Saadoddin Hekmat, 23 Ross Ave., A/P 7-284-10, application for use permit to allow living quarters and an outdoor display of merchandise. VAR-669 - for tandem parking.

Applicant was present and had received Staff Report.

Mr. Karl Baeck, property owner of 36 Ross Avenue, protested the application. He objected to the late hours of the cafe, particularly the outdoor portion which would generate noise. Mr. Baeck also felt the cafe would generate an increase in traffic and he felt it would upset a tranquil neighborhood. Mr. Baeck presented the Commission with a petition from the neighbors protesting this application.

Commissioner Greenfield commented the nighttime operation of the cafe would probably generate 'drive to' type traffic rather than 'foot traffic'. He felt, however, that if it was found that the use was detrimental it could be reviewed and/or revoked, if necessary.

Commissioner Fairchild had no comments on the application.

Commissioner Ragan questioned applicant whether he planned on cooking in the cafe. Applicant stated there would be no kitchen in connection with the cafe, no remodeling.

Chairman Ainsworth stated he would support this application with the condition that there be no live music and that the outside area hours end earlier than the indoor section of the cafe. Chairman Ainsworth also stated that because of the large capacity of the cafe and the possible generation of traffic he would like to review the Use Permit after the summer season.

M/S Goltz, Greenfield to approve U-449, application for living quarters in a commercial area and for the outdoor sale of merchandise at 23 Ross Avenue, A/P 7-284-10, for Saadoddin Hekmet (Saadi's Cafe) on the basis that approval of this use permit is necessary to afford property rights in allowing a reasonable use, and although there might be a slight detriment to the neighborhood foreseen by this use permit, that it would be mitigated by the following requirements:

1. Hours of operation shall be limited in the following manner:
 - a. Outdoor cafe operation shall be terminated at 9:30 p.m.
 - b. Indoor cafe operation shall be terminated at 11:00 p.m.
2. That there not be any live entertainment or live or amplified music counter to that designated in the Town's Noise Ordinance.
3. That one parking space be provided as an adjunct to the resident's living quarters.
4. That when this application is brought before Design Review the applicant;
 - a. Present to the Design Review Committee a suggested color scheme for the front structure and outdoor cafe.
 - b. Any lighting that would be required for outdoor cafe use be presented by the applicant to Design Review.
5. That this application be reviewed in 6 months.

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

Applicant was advised of the 10-day appeal period.

M/S Ragan, Greenfield that VAR-669 for Saadoddin Hekmat, 23 Ross Avenue, A/P 7-284-10, for tandem parking be denied on the basis that U-449 eliminated its necessity. Passed unanimously.

2. VAR-668 - Richard Hickey, 405 The Alameda, A/P 5-041-34, application for a 1'3" sideyard variance to permit a third bedroom with bath.

Applicant was present and had received Staff Report.

Applicant stated he had come into the Building Dept. before purchasing the house to ask whether or not he could add the proposed room. He was told there would be no problem.

Commissioner Greenfield stated the only objection he had to this application was that the neighbor next door objected to a window.

The next door neighbors, Mr. Sorrel and Ms. Cronquist (401 The Alameda) stated they would have no objections to a bathroom window which was unopenable and translucent.

Chairman Ainsworth felt that while there was no site hardship, there certainly was an exceptional circumstance to the building in that the house was built when a lesser sideyard setback was in effect.

Commissioner Ragan stated that denial of the variance would permit the construction of the room with a window, which would be detrimental to the neighbors. By granting the variance the undesirable aspect of this addition would be eliminated.

M/S Ragan, Greenfield to grant VAR-668, application for a sideyard variance of 1'3" for a roof overhang 4'9" from the property line for a dwelling addition with the wall line 6'7" from the property line at 405 The Alameda, A/P 5-041-34, on the basis that while a specific site hardship condition does not appear to exist for this lot, there is an exceptional circumstance applying to the building in that the house was built within what is now the sideyard setback. It is also felt that the granting of the variance permits a full control of the one detrimental effect to the neighbor that was specified with the provision that the west wall either contain no window or an unopenable, translucent bathroom window. The granting of this variance is necessary for the owner of the property to enjoy full property rights.

Granting of this variance is based on the drawing received and dated April 27, 1976 by Richard Hickey, minus the window shown on the west side wall view.

Passed unanimously.

Applicant was advised of the 10-day appeal period.

B. PUBLIC HEARINGS

1. Proposed Ordinance Establishing and Regulating Second Units

Messrs. Leitzell and Bruce were present to discuss the ordinance with the Commission. (Council members Jim Reed and A. Signorelli were also present in the audience.)

Alan Bruce stated the 5/10/76 draft followed the discussion from the workshop meeting between the Council and the Planning Commission of May 4. The draft attempted to: pick up points of consensus; add a new format which would encompass this ordinance into one section of the Code; put the ordinance into layman language, but at the same time be close to legal language to stand up.

Mr. Bruce stated the Council would like the Commission to get through the ordinance tonight so that they could hear it at their May 25th meeting.

Commissioner Goltz commented that while he felt the structure of Alan Bruce's draft was good, he felt that its content ignored the basic concepts in the Planning Commission draft and even was different than the general concensus arrived at between Council and Commission.

Alan Bruce's 5/10/76 draft was used for review and compared with the Commission's original draft ordinance prepared for the meeting of 4/19/76.

Changes made by the Planning Commission at tonight's meeting are incorporated in the 5/10/76 draft which will be dated, "Revised May 17, 1976".

At approximately 2:00 a.m., the Chairman recommended that, due to the lateness of the hour and the fact that the Commission had only discussed half the draft ordinance, the public hearing should be continued to another time.

Commissioner Ragan left the meeting, 1:45 a.m.

M/S Goltz, Ainsowrth we put the public hearing on the ordinance establishing and regulating residential second units over until the 24th of May. Passed unanimously.

- 2. Z-154 - Rezoning of certain parcels over 20,000 S.F. which are located in the Health and Safety Area , or are parcels in common ownership which when combined are over 20,000 S.F. to "PPD-R-1"

Held over until June 21, 1976. (See earlier comments made by the Commission on this item before "New Business".)

5. MATTERS FOR CONSIDERATION

- 1. Proposed Condominium Conversion Ordinance - Held over until 5/24/76.
- 2. Proposed Amendments to Subdivision Ordinance - Held over until 6/7/76.
- 3. Proposed Amendments to the Design Review Ordinance - Held over until 5/24/76
- 4. Budget 491 - Capital Improvement Plan - Planning Commission review and recommendation to the Town Council - Held over until 5/24/76.

6. ADJOURN

M/S. Greenfield, Ainsworth to adjourn to the May 24th meeting. 2:05 a.m.


Catherine Carpenter, Secretary