

The regular meeting of the San Anselmo Planning Commission was called to order by Chairman Hayes on April 4, 1988, at 8:00 p.m. in the Town Hall Council Chamber. Staff present: Lisa Wight, Planner.

A. ROLL CALL

Commissioners Present: Zaharoff, Julin, Yarish, Manning,
Hayes

Commissioners Absent: Sias, Harle

B. PUBLIC HEARINGS

1. U-621 - Church of Divine Man, 1381 San Anselmo Avenue, A/P Nos. 7-052-55, 7-052-56, 7-052-57, 7-052-58 and 7-052-59, review of the use permit for a church in an R-1 zone (use permit was granted in May, 1987).

Reverend Richard Lawrence, applicant, present.

Lisa Wight presented staff report dated April 4, 1988.

Lorraine Ferraresi, 24 Elm Avenue, read a statement about the Church, stating that the current use is not the same as was previously approved and the playground is used for cars. The noise is also a concern as well as traffic. There is an influx of 30-50 cars nightly. She thought the General Plan was to keep the area residential. She would like to see the use reviewed and denied as too intense a use for the area.

Mary Ann Marsili, 26 Elm Avenue, said the basketball hoop in the playground is maintained by the residents in the neighborhood and her son is unable to use it because of the parked cars in the playground.

Reverend Jane Smith, presented photographs of children playing in the playground and also stated that some of the cars that do park on the premises do not belong to the Church.

Reverend Richard Lawrence read the letter he presented to the Planning Commission dated March 30, 1988. He does not feel he has violated his Use Permit. There is no mention of the number of parishiners specified in the Use Permit. The Sanctuary holds 100 people so he does not feel it is too intense a use for the site. When large functions are scheduled, other locations are used. The Church closes at 10:00 p.m. and the parking lot is employ by 10:20 p.m. Also, there is only a suggestion on our Use Permit that they work with the neighbors on the use of the playground.

Commissioner Manning was interested in the break down on number of people at each activity. Perhaps when this use was granted last year growth was not discussed. He wondered to what extent has the Church dealt with the neighbors in solving problems. He felt there should be further dialogue with the neighbors.

Commissioner Julin felt the congregation has grown rapidly and it is becoming a nuisance to the neighbors. Perhaps it is too intense a use for the area. She would like to see it scaled back to conform to the original use.

Commissioner Yarish felt there was a need to define a maximum use of this space. There should be an analysis done of the parking on site and would suggest a continuation to another meeting to discuss the change in use. He wondered if something could be worked out with the neighbors regarding parked cars on the playground. Perhaps as overflow parking only.

Commissioner Zaharoff was interested in knowing what the classes entail and how many people were in each class. She said the quality of the use of the building is part of making a decision and was tied in with the Church of the Nazarene's use.

Reverend Lawrence said his use isn't different than originally defined. The use of the Church is teaching, which is no different than any other church.

Lisa Wight noted that she telephoned Reverend Lawrence prior to the 1987 use permit hearing to request additional information on the use and copied his words verbatim: "One service Sundays 10:30.a.m. now 30-50 parishioners - sanctuary. Don't see any use not already there."

Chairman Hayes wondered how many parking spaces are available on site, in the playground, how many members are there in the Church, and is interested in the activities and number of people attending each activity. Chairman Hayes said the Church should be complimented on their success. He explained at length the intent of tonight's hearing was to review the use permit and based on the comments of the Commissioners, and the public, there seemed to be an increase in the use which means the Commission should move to hear and renotice for an amended use permit. He stated that the use permit was approved in May 1987 but was also tied into the approval of the use in 1979 granted to Church of the Nazarene. He wondered how the Church would propose to deal with traffic and the neighbors concerns. He thought it would be a good idea to try to work with the neighbors to resolve some of the issues.

Commissioner Julin thought since the congregation is growing perhaps come up with some projected figures.

Lisa Wight suggests the Commission direct the applicant to provide number of vehicles and classes daily, and clarification on the actual number of members of the Church.

The Bishop of the Church remarked that the information staff is asking for is privileged information and hopefully this could be resolved at the Community level. Their attorney has advised them to follow the use permit agreement which the Church has been doing.

Richard Jackson, Vice President, Church of the Divine Man, said the additional information that is being requested is privileged information and the Church is reluctant to apply for an amended use permit.

Lisa Wight said she will check with the Town Attorney but it is her understanding if the applicant decides not to apply for an amended use permit the Municipal Code states the use permit can be revoked. Also, she will send a letter to the applicant documenting what the Commission has requested.

Cindy Stakes, Minister, does not understand why the use has to be amended.

M/S Yarish, Manning to refer U-621 - Church of Divine Man, 1381 San Anselmo Avenue, A/P Nos. 7-052-55, 7-052-56, 7-052-57, 7-052-58, and 7-052-59 to refer back to the applicant to submit information on traffic generators, hours, dates and times that are not covered by the Use permit dated May 1987, number of persons in attendance at the special meeting times (not how many in each group, just on site at each time). The amendment application will be renoticed.

All ayes. Motion passed unanimously.

2. V-2226 - Daniel and Karlene Caldwell, 40 Redwood Road, A/P 7-081-41, a five inch east sideyard variance to construct a second story open deck within 5'7" of the east side property line; and a 2'5" east sideyard variance to construct a first story bathroom addition within 5'7" of the east side property line; and a 3 inch west sideyard variance to construct a second story balcony within 5'9" of the west side property line.

Daniel and Karlene Caldwell, applicants, present.

Lisa Wight presented staff report dated April 4, 1988.

Daniel Caldwell said the variance is necessary to continue the line of the house.

Commissioner's Julin and Manning had no objection to the application.

Commissioner Yarish questioned why the bath was elevated, saying he thought if it could be lowered it would decrease the impact on the westside neighbors. The applicant felt it was aesthetically pleasing and also because of the plumbing, access to the sewer and that area tends not to drain quite so well.

Commissioner Zaharoff was in favor of the application.

Chairman Hayes had no objection to this application.

M/A Zaharoff, Julin to approve V-2226 - Daniel and Karlene Caldwell, 40 Redwood Road, A/P 7-081-41, a five inch east sideyard variance to construct a second story open deck within 5'7" of the eastside property line; and a 2'5" east sideyard variance to construct a first story bathroom addition within 5'7" of the east side property line; and a 3 inch west sideyard variance to construct a second story balcony within 5'9" of the west side property line on the basis that: Due to special circumstances applicable to the property, specifically the size and location of the building on the lot, the strict application of the controlling zoning ordinance or regulation deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification, specifically that other buildings are close to the lot line and enjoy balconies. The granting of the 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, specifically that other properties are built near the lot line; The granting of such variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner, specifically that the building is small and other properties enjoy second baths and enjoy balconies; and The granting of such variance, under the circumstances of the particular case, will not materially affect adversely the health or safety of persons residing or working in the neighborhoods 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, specifically that the additions do not impact adversely the neighbors and will be an aesthetic improvement to the neighborhood. This is based on the drawings received by the Town on April 4, 1988.

All ayes. Motion passed unanimously. Applicant advised of the 10 day appeal period.

3. EU-18 - William and Rachel Schutt Mesrahi, 49 Oak Knoll Avenue, A/P 7-014-08, use permit for a second living unit to continue upon change of ownership, and an exception for the owners to not live on the property as required by the Second Unit Ordinance.

William and Rachel Schutt Mesrahi, applicants, present.

Lisa Wight presented staff report.

The applicants stated that they want to have their elderly parent live in the rental. They have no objections from any neighbors with the exception of the owners of No. 70. Also, they have invested money to upgrade and landscape the home and have increased parking by one space.

Commissioner Yarish did not see any problem with the approval of the application. Commissioner Manning echoed Commissioner Yarish. Commissioner Julin said it was in keeping with the spirit of the ordinance since the applicants live just across the street. Commissioner Zaharoff was in support of the application. Chairman Hayes was in support of the application.

M/S Zaharoff, Manning to approve the exception to the residence requirement on the basis that: The exception to the residence requirement should not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the Town due to the fact that the applicants reside directly across the street and will maintain the property just as they were living on the premises and in keeping with the spirit of the ordinance; The granting of the application is necessary for the preservation and enjoyment of substantial property rights, specifically because the applicants reside directly across from the property and in keeping with the 2nd unit ordinance is would be unfair to deny when keeping with the spirit of the ordinance.

Motion passed unanimously.

M/S Zaharoff, Yarish, to approve EU-18 - William and Rachel Schutt Mesrahi, 49 Oak Knoll Avenue, A/P 7-014-08, use permit for a second living unit to continue upon change of ownership on the basis that: The second unit falls within the maximum number of second residential units authorized by resolution of the Council for the single family residential use area in which the unit is located. The second unit is not located on an Assessor's parcel or parcels on which the owner of record maintains his principal residence; however, an exception is applied for with this application. The second unit does encroach upon required setbacks; however, variances were granted in 1977; the second unit does not cover land in excess of 40 percent lot coverage; and variances were granted in 1977 for vehicular parking within the required setbacks. The second unit will be inspected by the Town Building Inspector before it can be rented to be sure it meets all applicable codes in effect at the time of the establishment of the unit. The second unit will be made the subject of a rent guarantee contract between the applicant and the Town pursuant to the provisions of Article 6 of this chapter; The second unit should not cause excessive noise, traffic, parking, or overloading of public facilities. The second unit should not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the Town provided the applicants continue to reside in the neighborhood. The granting of the application is necessary for the preservation and enjoyment of substantial property rights.

Motion passed unanimously. Applicants advised of the 10 day appeal period.

C. APPLICATIONS CONTINUED OR WITHDRAWN

1. EU-11 - Uma Silbey, 28 El Cerrito Avenue, A/P 5-242-11, a use permit for a second living unit to remain upon change of ownership - CONTINUED TO 4-18-88

2. V-2225 - Eric Ainsworth, 95 Tamalpais Avenue, A/P 5-242-11, a 12 foot rearward variance to construct a two car garage and second story addition within eight feet of the rear property line with a six inch roof overhang - CONTINUED TO 4-18-88

3. V-2172 - Libby Hayes, 14 Elm Court, A/P 7-081 -15, a 15'3" rearward variance and a 4'11" east sideyard variance for an accessory building addition to be within 4'9" of the rear property line and within 3'1" of the east side property line, with an 18" roof overhang - AFTER THE FACT -

D. APPROVAL OF MINUTES - MARCH 21, 1988

M/S Zaharoff, Julin, to approve minutes of March 21, 1988 with the following amendments: page 2, first paragraph, change spelling from "fur" to "fir".

Motion passed unanimously.

E. ADDITIONAL BUSINESS

Commissioner Julin asked for an update on the Carradine application and stated she was disappointed that the Town was proceeding with the continuance without the applicant paying for the services already rendered by the Consultant.

Chairman Hayes wondered if there were any guidelines on the number of hours the Consultant will be needed on a project. Is the applicant given a projected cost.

F. The regular meeting of the San Anselmo Planning Commission was adjourned at 10:45 p.m. to the next regular meeting on April 18, 1988.

Barbara Chambers