

The regular meeting of the San Anselmo Planning Commission was called to order by Chairman Hayes on February 1, 1988, at 8:00 p.m. in the Town Hall Council Chamber. Staff present: John Roberto, Planning Consultant, Hadden Roth, Town Attorney, and Lisa Wight, Planner.

A. ROLL CALL

Commissioners present: Hayes, Manning, Sias, Yarish, Zaharoff, Harle
Commissioners absent: Julin

B. APPROVAL OF MINUTES

December 21, 1987

M/S Zaharoff, Harle to approve minutes as written. Ayes: Harle, Yarish, Sias, Zaharoff, Hayes. Abstain: Manning

January 4, 1988

M/S Sias, Yarish to approve minutes with the following amendments: Page 1, fourth paragraph from the bottom, delete "is too shiny" and add "not be too reflective in nature"; page 2, 12th paragraph, change number two to read "drainage report does not cover the capacity of water not indicate how much water in the existing drainage systems". Ayes: Hayes, Manning, Sias Yarish, Zaharoff. Abstain: Harle

C. PUBLIC HEARINGS

1. Proposed Interim Ordinance to prohibit applications for a General Plan amendment; zone change; zoning ordinance amendment; annexation; rezoning; subdivision of lands in the R-1 H zoning district; and subdivisions, development and land use applications on properties where the current zoning is inconsistent with the current San Anselmo General Plan.

John Roberto, presented the staff report dated January 28, 1988.

Peter Fraser, R-1 H property owner, wanted the Commission to state the urgency and reasons for passing this proposed Interim Ordinance. His property has already been rezoned to be in conformance with the General Plan. He felt the raising of issue is not formulating policies. He wanted to know what the policies are. He wanted to know why there need be a third ordinance to back up the other two.

Hugh Cadden, 100 Shady Lane, said many years have been spent on defining R-1 H and densities were assigned. Now there is a review to conform with the General Plan. He can not understand why the moratorium can continue until December 1988. He feels there are a handful of properties involved relating to the issues and they are site specific. If forced into a litigation situation, the property owner's rights will be recognized. On behalf of the Shortalls and himself, Mr. Cadden is opposed to the Interim Ordinance.

Commissioner Zaharoff was in favor of recommending the adoption of the Interim Ordinance to the Town Council.

Commissioner Yarish said the ordinance recognized the state of flux in view of the General Plan and suggested its approval be amended with wording to state "as quickly as possible". To which Commissioner Sias and Harle agreed.

Commissioner Manning asked about annexation, and wondered if this applies to a Town initiated annexation. To which Mr. Roth replied yes. On page page 3, Commissioner Manning questioned the word "hardship". Mr. Roth responded by saying it should be analogized to variances and relates to the land and not ownership of land.

Regarding page 3, number 4, section 2, Commissioner Manning wanted to know if there was a penalty for the property owner if they fail to request in writing a finding by the Town staff as to whether his or her property is zoned consistent with the General Plan. Mr. Roth responded saying this ordinance does not provide for a penalty on failure to respond to such a request.

Chairman Hayes cited section 1.d.3 saying there was nothing to prevent people that have no exceptions which is not zoned inconsistent with the General Plan for making application under this ordinance to the Town. He wondered who was going to hear those applications. Mr. Roberto said the Town Council will hear and make the decisions on those applications.

Chairman Hayes stated that the adoption of the proposed interim ordinance and its policies is supported by the Town Council as evidenced by the Town Council's previous adoption of ordinances 886 and 893, therefore he was in support of its adoption. Chairman Hayes wanted to know what the time frame would be for adopting the new General Plan. Mr. Roberto felt a draft would be ready for public hearing in May and perhaps a final in June.

Bruce Bailey, attorney for Mr. Fraser, wondered when this proposed interim ordinance will be approved. Mr. Roberto said it will be up for discussion by the Town Council on February 9th and then if approved, adopted at a subsequent meeting.

M/S Zaharoff, Sias, to recommend adoption of the Interim Ordinance as shown in the staff report dated January 28, 1988 from John Roberto to the San Anselmo Planning Commission. All ayes. Commissioner Yarish to amend the ordinance adding "in concern and interest, recommend the Town Council complete as exhibitiously as possible". All ayes. Motion passed unanimously. Audience advised of the ten day appeal period.

2. A-144 - Mauro Passeti, 60 Mariposa Avenue, A/P 7-284-32, design review of ten apartment units and review of the environmental document - CONTINUED TO 2-22-88

3. V-2207 - Wie-Shing and Lorraine Lee, 208 Brookside Drive, A/P 5-132-28, a frontyard variance and a north sideyard variance to enlarge a garage to accommodate two vehicles - CONTINUED TO 2-22-88.

4. U-631 - Cerelo Nabarrete, Jr., 330 Sir Francis Drake Boulevard, A/P 6-251-04, use permit for Arthur Murray Dance School in a C-3 district.

V-2208 - Cerelo Nabarrete, Jr., 330 Sir Francis Drake Boulevard, A/P 6-251-04, parking variance for a dance school in a C-3 district.

Cerelo Nabarrete, Jr., applicant, present.

Lisa Wight, presented the staff report.

There was discussion as to whether or not Mr. Nabarrete and Ms. Izdebski's applications should be heard simultaneous because they occupy the same premises. It was decided that each application be presented separately.

Mr. Nabarrete said that Arthur Murray has been in existence for 75 years and in San Anselmo approximately 20 years. The premises was formerly used by Arthur Murray and he felt this would be a good spot for his franchise because there were no complaints in the past.

Eddie Iacopi, San Anselmo Tire and Brake, 20 Greenfield, said that parking is the real issue. There are only 30 spaces of on-site parking located behind the theatre, Marin Fish and Poultry originally had 10 and 3 have been taken away, and 20 for San Anselmo Tire and Brake and 3 have been taken away. There are not 18 available parking spaces as stated in the staff report.

Tony Barbera, Collective Antiques, could not understand how this application and the next one could even come before the Planning Commission. These people are sub leasing from Carter Collins and his application was denied both at the Planning commission and the Town Council. Additionally, work has been done on the premises without the necessary permits.

Chairman Hayes said the application presented by Mr. Collins was for a large scale operation and was denied. It does not preclude someone else applying for another use. Regarding the work being done without permits, Ms. Wight said that necessary permits were obtained and some work did not require permits.

Maggie Simons, Country Store, 312 Sir Francis Drake, wanted to know how much space Arthur Murray will occupy and how much will be left for other tenants. Is there a maximum number of tenants that can occupy the premises and how can it be controlled. Ms. Wight stated that each applicant will have to come before the Planning Commission for a use permit and variance.

Eric Swensen, Lincoln Avenue, wanted to know what association the applicant had with Carter Collins and was this application for a dance studio a change in the use for the building. Ms. Wight indicated there were several uses for this building, of which this application was one.

Donna Mani, Country Store, 312 Sir Francis Drake Blvd., wanted to know how many students there are per day and how long does each lesson last. Chairman Hayes outlined the hours and number of students as stated in the staff report.

Eddie Iacopi, 20 Greenfield, wondered how a business could sustain itself with only one or two students at a time, and would the applicant be able to increase the number of students without letting the Commission know. Chairman Hayes said that conditions can be attached to the use. Mr. Nabarrete explained that he has one employee besides himself. People come in on an introductory package and can then spend between two to three thousand dollars on lessons. He stated that as his business increases, his staff will increase.

Chairman Hayes asked if the maximum number for this use would be 20 as stated in the staff report. The applicant responded by saying that was fine.

John Monty, Country Store, 312 Sir Francis Drake Blvd., wondered if limits were set by the Commission, who would monitor those limits to see that they were followed.

Barbara Jones, 312 Sir Francis Drake Blvd., stated that parking is the big issue.

Mariana Moressier, Collective Antiques, 316 Sir Francis Drake Blvd., said parking is a hazard and she has spoken to the applicant about it.

Christine Hubach, 61 Lincoln Avenue, would like to see a reduction of parking on the residential streets.

Commissioner Yarish felt that the use was relatively noise free and presented a minimum of parking difficulties.

Commissioner Sias agreed with Commissioner Yarish but felt conditions should be placed on the use to limit the number with perhaps a probation period. Commissioner Harle echoed Commissioner Yarish.

Commissioner Manning concurred with what has been stated about the probation period but thinks the neighbors have concerns that need to be addressed before a decision can be made.

Commissioner Zaharoff concurred with the other commissioners about the number of students being quite small and would like also to see a six month review period attached to this use and the maximum number of students as set by the table in the staff report be a condition of the use permit.

Chairman Hayes wanted to know the square footage of the building and what restraints could be put on the number of applications for the building or is it only through accumulated impact. Mr. Roth affirmed. Ms. Wight said that staff does a background on each application.

Commissioner Harle wanted to know the nature of Mr. Collins interest. Mr. Roth said his understanding is that Mr. Collins is subleasing.

Chairman Hayes wondered if there were more applications that will be coming before the Commission besides the current two. Ms. Wight said that she has had two more people inquiring about a dance studio but have not yet made application. Chairman Hayes said the Commission will have to make judgements on the parking requirements for each use and each application will be increasingly difficult. There seems to still be questions about the exact number of parking spaces for the entire space and also the number of spaces committed to other businesses. He wanted to know if the number of students is greater or less than the previous Arthur Murray.

Tony Barbera, Collective Antiques, stated that there is also another tenant who teaches drums that does not have a use permit. He wanted the Commission to postpone making a decision until clarification is made on the number of parking available and also because the Police Department is considering closing the right lane to parking for certain hours during commute hour, what affect will that have on the businesses in the area.

Chairman Hayes questioned the term "party" as referred to a type of class. He wanted to make it clear that this was not an endorsement of a night club. Mr. Nabarrete said they are really practice sessions with minimal supervision. There will be no smoking or alcohol allowed. Chairman Hayes felt the wording should be changed if that was acceptable to the applicant to group lesson. That was acceptable to the applicant. Chairman Hayes wanted to know how many spaces would be lost if the lane on Sir Francis Drake were closed to parked traffic. There seemed to be many unanswered questions, therefore he felt the application should be continued.

Commissioners Sias and Zaharoff were willing to continue in light of the unanswered questions. Commissioner Yarish did not feel his vote would change on this application but out of respect of the surrounding business he would like to see the additional information.

Someone from the audience asked if the businesses will have to cease operation until a decision is reached. Mr. Roth said should the Town decide to act because they are operating without permits they would be fully within their rights. Chairman Hayes felt a decision could be made at the next Commission.

M/S Sias, Zaharoff move to continue U-631 - Cerelo Nabarrete, Jr., 330 Sir Francis Drake Boulevard, A/P 6-251-04, use permit for Arthur Murray Dance School in a C-3 district and V-2208, a parking variance for a dance school in a C-3 district, until information is obtained on the number of parking spaces available, a map showing the proposed drop off, and a map of the available parking in the area; to the special meeting of February 22, 1988. Motion passed unanimously.

5. U-632 - Marilyn Izdebski Productions, 330 Sir Francis Drake Boulevard, A/P 6-251-04, use permit for Marilyn Izdebski Productions Dance School in a C-3 district.

V-632 - Marilyn Izdebski Productions, 330 Sir Francis Drake Boulevard, A/P 6-251-04, parking variance for a dance school in a C-3 district.

Marilyn Izdebski, applicant, present

Lisa Wight presented the staff report.

Ms. Izdebski, does not want to create any problems for any of the tenants below her. She has moved her studio farther to the rear of the building hoping that would eliminate the noise problem. Regarding parking, she was told there would be 13 spaces available, she uses one and most of the children are either dropped off of take the bus. The adult classes are in the evening when parking is not a problem for the other businesses in the area.

David Isaac, representing applicant, said the school has been in operation since September and they have not experienced any parking problems.

Louis Casasa, teacher, Drake High School, explained how Ms. Izdebski has donated much of her time in helping the advanced drama class and did not see parking as a unique problem for this business.

Eddie Iacopi, 20 Greenfield, reiterated the number of parking spaces available.

Casey Skinner, has never experienced parking problems.

Gary Krishner, Irene Skully, Carmelia Soggie, Liz Meany, said they have never experienced parking problems.

Kathryn Barcos, said the applicant has had rehearsals at the Playhouse at the Seminary and her group of children have always been the most disciplined. The applicant is only seeking to operate a business that will be a benefit to the children in the community.

Joanna Farmer, admits that parking could be a problem but the school is also drawing customers to the business community. Any business that proposes to go in to this space will create at least the same amount, if not more than this dance school.

Maggie Simons, 312 Sir Francis Drake Boulevard, Sir Francis Drake is a fast moving street and it is not easy to park.

Ann Philips, students are potential customers for the businesses in the area.

Cory Susser, Managing Director of Marin Ballet, feels the issue before the Commission is not as it relates to Carter Collins, but rather how it relates to the applicant.

Jack Undershine, Corte Madera, felt that this school would attract people from other parts of Marin and would increase revenue of the Town. Regarding the parking, he felt most students were children and therefore parking should not be an issue. Perhaps there should be two designated parking spaces allocated for the tap school. He felt that Ms. Izdebski should be able to continue teaching on the premises. She was unaware that permits were necessary. Regarding noise, he felt staff report was biased using the word "thunderous", stating that there was no discussion on the benefits, which out way the detriments. Regarding children, this is an asset for the children to have the school.

Kent Diehl, Witherspoon & Postlethwaite Gallery, 332 Sir Francis Drake, has seen parents double park to let the children off, it causes traffic problems and is also unsafe for the children. He believes the dance school is a first story business and this building is wrong for the use. He has had to call the police because of the excessive noise. He is no longer able to use some of the space he rents because his work is sensitive and he can not concentrate. On behalf of George Tawasha, the Taylor Shop, Mr. Deal said they are having a difficult time keeping staff because of the noise. He feels that the dance classes should take place after hours. Regarding the decibel levels, these were obtained when there were only two students.

The tenant at 306 Sir Francis Drake Blvd., felt there is a legitimate grievance with the noise levels and the lack of parking is hurting the established business. He has experienced the excessive noise levels. The building is wrong for this type of use.

Jackie Thomas, was supportive of the business.

Marilyn Izdebski, said she is only teaching 3 hours a day when the businesses are open downstairs. She welcomed the Commission to take another decibel count.

Jack Undershine, said this use will have a minimal impact on others and there should be ways to solve the problem such as putting carpet on the stairs to soften the noise.

Commissioner Sias would like to have another decibel reading as noise is the unresolved issue. All businesses are valuable and we have to address all the issues. Perhaps the applicant should look into changing hours and carpeting stairs. Regarding parking, he would like to have a designated drop off zone.

Commissioner Harle agreed with Commissioner Sias about the drop off zone. Regarding noise did not think the decibel level is important, rather that the other businesses are saying the noise is audible and distracting. Noise seems to be a significant problem. Perhaps carpeting would help.

Commissioner Manning said the focus should be on what could be done to mitigate the noise. Also look at rescheduling the classes.

Commissioner Zaharoff would like to see a drop off and pick up area, perhaps in the back of the building; would like to see how many parking spaces are available for the building; would like to see mitigations to resolve the issues. Also, if there are other classes being conducted without permits to have that investigated by staff.

Commissioner Yarish, wants more information about parking, would like to see applicant attempt to have dialog with neighbors to mitigate the noise, perhaps with insulation.

Chairman Hayes said the applicant needs to find a way to mitigate the problem. He would like to have a statement of where dancing

will take place; regarding children on the stairs, perhaps carpeting or wearing street clothes in; the drop off point needs to be addresses; perhaps adjusting class times so as not to affect the downstairs businesses.

M/S Yarish, Sias, move to continue U-632 and V-2209, Marilyn Izdebski Dance Productions, 330 Sir Francis Drake Boulevard, A/P 6-251-04, for a use permit and parking variance for Marilyn Izdebski Dance Productions in a C-3 district, for the following to be submitted; plans addressing drop off parking and noise mitigations to be worked out with your neighbors, perhaps rescheduling business hours, and recarpeting stairs; to the special meeting of February 22, 1988. Motion passed unanimously.

6. V-2210 - John Montgomery, 33 Scenic Avenue, A/P 7-081-22, a variance to construct a second approach to the property off Redwood Road; and a 20 foot rearyard variance to construct a parking deck off Redwood Road within zero feet of the rear property line.

John Montgomery, applicant, present.

Lisa Wight presented staff report.

Rick Storms, 25 Scenic, is the next door neighbor and feels that the only reason for the variance request is because he is renting out rooms. He does not feel that a single person needs five parking spaces and this is not a proper reason for a variance.

John Montgomery, provides rooms on a sharing basis and did not think this was unacceptable.

Commissioner Harle considered the area on Redwood not a high speed straight and therefore was in favor of this application. It is a logical place to put the parking because of the topography of the lot.

Commissioner Manning had difficulty in supporting the application stating there is adequate parking already available.

Commissioner Zaharoff agrees with off street parking but was troubled by the access off Redwood Road. There are already three on site parking sites which is considered adequate.

Commissioner Yarish stated that the deck as designed violates several building regulations and needs a structural engineer. He felt the applicant would have to get a soils report and the piers would have to be drilled. He felt this was over development of the property.

Commissioner Sias could not make the necessary findings given the three car parking already existing and felt it was over development of the property.

MS Yarish, Sias, move to deny V-2210 - John Montgomery, 33 Scenic Avenue, A/P 7-081-22, a 20 foot rearyard variance to construct a two-car carport within zero feet of the rear property line on the basis that: 1. There are no 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 identical zoning classification, specifically that sufficient parking is existing on other parts of the property; 2. The granting of the variance will 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 the existing three spaces is not just consistent but very good in comparison to the neighborhood; 3. The granting of the variance is not necessary for the preservation and enjoyment of substantial property rights of the petitioner; 4. The granting of such variance, under the circumstances of the particular case, will materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood, specifically that the proposed driveway is located within 100 feet of a hairpin turn on Redwood Road as stated in the staff report. This is based on drawings received by the Town October 9, 1987.

Ayes: Sias, Manning, Yarish
Noes: Zaharoff, Harle, Hayes

M/S Zaharoff, Harle to continue V-2210 John Montgomery, 33 Scenic Avenue, A/P 7-081-22, to a special meeting of February 16, 1988 when another Commissioner will be present. Motion passed unanimously.

7. V-2213 - Nancy Filmer, 10 Entrata Avenue, A/P 6-241-32, a three foot frontyard variance to construct an addition within 17 feet of the front property line.

Nancy Filmer, applicant, present.

Lisa Wight presented staff report.

All Commissioners were in support of this application.

M/S Zaharoff, Harle, move to approve V-2213 - Nancy Filmer, 10 Entrata Avenue, A/P 6-241-32, a three foot frontyard variance to construct an addition within 17 feet of the front property line on the basis that: 1. 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 identical zoning classification, specifically the narrowness of the lot necessitates the placement of the addition in this location; 2. 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 property in the area enjoy construction in the frontyard of their lots to accommodate building in other lots with like configuration; 3. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner, specifically that this is the only location on the lot that the addition can be constructed; and 4. 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 neighborhood of the public welfare or injurious to property or improvements in such neighborhood, specifically that this addition will not visually impact any of the neighbors or cause aesthetic problems. This is based on the drawings received by the Town February 1, 1988.

Motion passed unanimously. Audience advised of the ten day appeal period.

It was agreed that this next application would be heard before Mr. Ansari.

9. V-2214 - Ayris Hatton and Allan Kipperman, 112 Crescent Road, A/P 7-221-28, a 20 foot rearyard variance and eight foot east sideyard variance to reconstruct, raise the roof height, and add a tool shed to an accessory building within zero feet of the rear and east side property lines.

Ayris Hatton and Allan Kipperman, applicants, present.

Lisa Wight presented staff report.

The applicants said this will be a working studio and they had the support of all their neighbors.

M/S Yarish, Zaharoff, move to approve V-2214 - Ayris Hatton and Allan Kipperman, 112 crescent Road, A/P 7-221-28, a 20 foot rearyard variance and eight foot east sideyard variance to reconstruct, raise the roof height, and add a too shed to an accessory building within zero feet of the rear and east side property line on the basis that: 1. due to the 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 identical zoning classification, specifically, subject tool sheds are common in the area; 2. 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 it is supported by all the neighbors; and 3. The granting of the variance is necessary for the preservation and enjoyment of substantial property right of the petitioner, specifically, this is basically a reconstruction of an existing structure; 4. 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 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, specifically; that it is entirely within the confines of the rearyard and has verbal approval of all the neighbors; based on drawings received by the Town November 20, 1987.

Motion passed unanimously. Audience advised of the ten day appeal period.

8. V-2212 - Cyrus Ansari, 94 Berkeley Avenue, A/P 5-165-35, a 12.5 foot rearyard variance to construct a new deck railing on a second floor open deck within 1.5 feet of the rear property line; a 5 foot rearyard variance and a 20 foot frontyard variance to construct a two car parking deck within 15 feet of the rear property line and 0 feet of the front property line; a 14 foot frontyard variance to construct open stairs within 0 feet of the front property line; a 14 foot frontyard variance to reconstruct and add to a second floor open deck within 0 feet of the front property line; a nine foot rearyard variance to construct a first floor open deck within five feet of the rear property line; a five foot rearyard variance and 11.5 frontyard variance to construct a two story second living unit within 15 feet of the rear property line and 8.5 feet of the front property line; an 11 foot frontyard variance and 12.5 foot south sideyard variance to reconstruct a first floor open deck within three feet of the front property line and 1.5 feet of the south side property line.

Cyrus Ansari, applicant, present.

Lisa Wight presented staff report.

Cyrus Ansari said the County Health Department and the Town have made him make improvements on his property and he is trying to conform to the codes set before him. He is decreasing the amount of deck space and asking to build an in-law unit.

Marlene Kawahata, 84 Berkeley, is opposed to the second unit as it will take away her privacy, feels that the two car parking deck is too small for the lot, and understands the applicant has a cracked foundation.

Diana Stone, 98 Berkeley, is against the decks being extended, and her privacy being invaded. The property has been unfit to live in and she is against any more extensions on this lot. This property has been a rental in the past to a succession of unsuitable people and this should be an example of how he would care for the second unit.

Jean Whelan, 90 Berkeley, does not want to look up at a blank wall and feels the applicant is overbuilding.

Marie Hoch, 51 Sunview, feels a second unit would create more noise, does not think all the variances are necessary. Does not understand how the applicant needs to have a 900 square foot second unit.

Ken Payne, 100 Berkeley, feels the applicant's property is a mess.

Russ Kawahata, 84 Berkeley, is concerned about noise, that his property value has been affected by the applicants property and feels the structure is already overbuilt for the lot. He said the plexiglass railings will eliminate their privacy.

Commissioner Yarish was overwhelmed by the number of variances but most appears to be reconstruction of decks. He could not support the second unit but could support the rebuilding of decks as long as the railings provide privacy. Commissioners Sias and Manning echoed Commissioner Yarish.

Commissioner Harle was sympathetic with the owners at number 84 but the house is surrounded by many other homes which have decks.

Commissioner Zaharoff could not support the second unit but could support the decks and recommends the railing be of something other than plexiglass for optimum privacy.

Chairman Hayes agreed with his colleagues.

Mr. Ansari said the in-law was proposed to fill a dead space and can not understand why the Commission is denying his application. With regards to the plexiglass used on the railings, his architect has suggested it and he will not change because the Commission and his neighbors do not like it. He feels his application is complete and the Commission has all the necessary information to make a decision.

M/S Zaharoff, Manning, move to approve V-2212 - Cyrus Ansari, 94 Berkeley Avenue, A/P 5-165-35 a 12.5 foot rearyard variance to construct a new deck railing on a second floor open deck within 1.5 of the rear property line with the condition that plexiglass not be a material for the railing; a 5 foot rearyard variance and; a 20 foot frontyard variance to construct a two car parking deck within 15 feet of the rear property line and 0 feet of the front property line; a 14 foot frontyard variance to construct open stairs within 0 feet of the front property line and eliminate stairs intended to access second unit; a 14 foot frontyard variance to reconstruct and add to a second floor open deck within 0 feet of the front property line; an 11 foot frontyard variance and; 1. 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 identical zoning classification, specifically, the narrowness of the lot necessitates the variances; 2. 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, other properties enjoy decks and parking decks in like configurations; 3. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner, specifically, because of the narrowness of the lot it is necessary for subject variances; and other properties in the area enjoy subject decks and parking decks; and 4. The granting of such variances, under the circumstances of the 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 neighborhoods, specifically, that subject variances will not be inconsistent with other decks and parking decks in the neighborhood; based on the plans dated February 1, 1988; and to deny the following variances: a 14 foot frontyard variance to construct open stairs to the second unit within 0 feet of the front property line; a 9 foot rearward variance to construct a first floor open deck within five feet of the rear property line; a 5 foot rearward variance and; a 11.5 foot frontyard variance to construct a two story second living unit within 15 feet of the rear property line and 8.5 feet of the front property line; on the basis that 1. There are no 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 identical zoning classification, specifically other properties do not enjoy second units; and the ground floor deck is not necessary in order to enjoy property rights that are already accomplished by existing decks; 2. The granting of the variance will 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, the second unit and ground floor deck are things not enjoyed by other properties in the area and would be a granting of special privileges; 3. The granting of the variance is not necessary for the preservation and enjoyment of substantial property rights of the petitioner, specifically, the property is already accessed by other decks and the ground floor deck is not necessary and would only infringe on the neighbors; and 4. The granting of such variance, under the circumstances of the particular case, will 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, specifically, the ground floor deck would substantially infringe on the privacy of surrounding neighbors and the second unit would affect substantially the privacy of neighbors; based on the plans dated February 1, 1988.

Motion passed unanimously. Audience advised of the ten day appeal period.

M/S Harle, Yarish, to deny NU - 60 - Cyrus Ansari, 94 Berkeley Avenue, A/P 5-165-35, use permit for a new second living unit on the grounds that this appears to be over use of a very small property.

D. ADJOURNMENT

The regular meeting of the San Anselmo Planning Commission was adjourned at 1:40 a.m. to the special meeting of February 16, 1988.

Barbara Chambers
Administrative Secretary/Technician