

THE PLANNING COMMISSION MINUTES OF AUGUST 1, 1988.

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

A. ROLL CALL

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

B. CONSENT AGENDA

1. Sohner Court Partnership, Ross and Mariposa Avenues, A/P nos. 7-284-27, 7-284-37, 7-284-41, 7-284-42 and 7-284-47, acceptance of Final Map.

2. AR-6 - Quarry Mountain Incorporated, End of Tomahawk Drive, Nos. 177-220-50, 177-220-40 and 177-250-41, approval of additional building colors.

The consensus was to take Quarry Mountain off the consent agenda because not all interested persons had been noticed as requested by the Town Council and moved to be discussed after the Church of Divine Man.

M/S Sias, Julin, to approve consent agenda with the exception of item number 2, Quarry Mountain Inc. which will be heard after item number 1 under Continued Public Hearings.

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

C. CONTINUED PUBLIC HEARINGS

1. U-621 - Church of Divine Man, 1381 San Anselmo Avenue, A/P nos. 7-052-55 through 7-052-59, consideration of resolution to amend the use permit granted in May, 1987 for a church in an R-1 District.

Mr. Corlie, Attorney representing the church was not present but Reverend Richard Lawrence was.

Lisa Newman presented the staff report.

Mary Ann Marsili, 26 Elm Avenue, asked if the Church of the Divine Man was a church or a school, what the connection was to the Berkeley Physic Institute, and if reducing night time activities would create an increase in daytime activities. She asked if anyone could appeal to the Town Council if this use is approved. Chairman Hayes affirmed. Lisa Newman said there is to be no more than 40 people on the site at anytime so decreasing the night activities should not have an affect on the daytime activities.

Mr. Roth stated that a church is defined as anything metaphysical. It is difficult to make the distinction between a church and a business unless it is a blatant misuse.

William De Bisshop, 91 Elm presented a suppliment to the Berkeley Physic Institute and stated there is more than one entity involved in this church. He felt there is a blatant violation of the use permit and the permit should be revoked.

Irene Busch, 82 Elm, asked why the Commission is proposing to alter the use to fit the church when they did not comply to the original use.

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Commissioner Sias thought the resolution would eliminate the problems of the neighborhood and will bring the use back to what was originally intended. It will prevent the existing problems. The conditions are directed at the neighborhood concerns.

Bonnie, 40 Elm Avenue, thought the Commission should be going in the direction of revocation of the use since the Church is continuing to grow.

Mary Ann Marsili, 26 Elm, asked why the Commission is trying to accommodate the applicant when clearly, the use has been exceeded. The neighborhood should not have to put up with this misrepresentation of use.

Mr. Roth explained that the Commission can only scale back the use so as not to cause a detriment to the neighborhood. If the church will comply with the conditions set by the Commission then they can continue. The first use was not clearly defined and that is the reason for the amended use.

Commissioner Sias noted that there are no restrictions on the number of people or hours in the original use for Church of the Nazarene.

Lisa Newman said that one provision of the proposed amendments to the use permit states the applicants would have 45 days to comply or there will be revocation of the use permit.

Jody Keene, 51 Elm thought the desire of the neighborhood was to go back to the original use.

Cornelius Keene, 51 Elm Avenue, said there are between 7 to 9 branches of the Church of the Divine Man and they are familiar with what they can do within the law.

Chairman Hayes asked the concerned public to closely review the proposed resolution and have comments ready for the meeting of August 15, 1988.

There was a 10 minute break so the Planning Secretary could make photocopies of the staff report and proposed resolution for the public.

Commissioner Yarish asked the Town Attorney for a status report on the Town providing liability insurance for the playground. Mr. Roth said he will have a report for the next meeting however an option would be that the people of the neighborhood waive any liability. Commissioner Yarish wondered if there could be conditions placed on the use that no outside organizations other than the church could hold meetings on the site. Mr. Roth said that could be added but it might be hard to monitor.

Bonnie, 40 Elm, it was her understanding that the Church of the Nazarene paid the insurance for the playground.

Cornelius Keene, asked if the use can be brought to a halt until the new requirements are made.

Commissioner Julin said the current use appears to destroy the peace and quiet of the neighborhood. She does not feel the evening hours of operation as stated in item number 2 are appropriate. In addition there needs to be some mention of the number of parking spaces allowed. In 1979 there were 27 parking spaces and the number should be around 27-30 for this use.

Commissioner Manning stated that this operation clearly exceeds the use. He was not sure the Town could enforce the outside organizations, in that many churches have guest

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lectures. He supported the idea of 27 to 30 cars. Regarding the playground, he feels it is a breach of the Church to take away the playground and does not think the Town should be responsible. The neighbors should sign a waiver if the church is not willing to provide insurance.

Chairman Hayes agreed with the comments of his colleagues. He directed a question to Reverend Lawrence, asking if they have a weekly service on Sunday. To which he replied yes, it starts approximately 10:30 a.m. and they have from 25-50 attendees. Regarding a parking attendant, Chairman Hayes thought it was a weak condition and asked if parking could be confined on site without using the playground as a parking space.

Bonnie, 40 Elm, said it was her understanding that the Church of the Nazarene was very conscience of the needs of the neighborhood and wanted to sell the property to people who would continue the same use as theirs. Lisa Newman said she looked at the deed and the Church of the Nazarene was interested in satisfying the needs of the neighborhood for the playground.

Mr. Roth noted that there could be a sharing of the premium costs.

William De Bisshop, 91 Elm said the gate needs to be reopened so the deer can get through.

Mr. Keene, 51 Elm asked if the children could play in the playground now. Mr. Roth asked Mr. Lawrence if there is current liability coverage and the response was that they are currently paying \$8,000 per month for insurance and that does not cover the playground.

Chairman Hayes directed staff to prepare a new staff report incorporating the suggestions and comments heard tonight for the next regular meeting. Lisa Newman said those reports will be ready at the pick up boxes in the Police Department the Friday prior to the meeting on August 15, 1988.

AR-6 - Quarry Mountain Incorporated, End of Tomohawk Drive, Nos. 177-220-50, 177-220-40 and 177-250-41, approval of additional building colors.

Lisa Newman stated it was brought to her attention that the Council directed that the color swatches on the building be 4'x8' in size and the noticing should include those interested people besides the standard 300 feet and neither have been done.

Mr. Elliott stated the color swatches on site were approximately 4'x6'. His concern is that his kiln dry siding will curl if a decision cannot be reached within a short period of time. He may be faced with having to paint prior to a decision by the Commission and then if necessary, repaint if the Commission does not approve the colors.

Larry Stack, 10 Alice Way, said the Council clearly specified that the swatches be at least 4'x8' in size and that there be specific manufacturer's alpha/numeric numbers attached to the colors so there would be no misinterpretation. He and Mr. Barsocchini were not noticed as to the meeting and they feel that those colors approved at the last meeting should be void.

Mr. Elliott wanted a clear understanding on who Mr. Stack felt the interested parties were so the Town could properly notice them. Mr. Stack said those people who were included in the minutes of the Town Council meeting when the appeal was upheld of the approved colors.

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M/S Sias, Yarish, to continue AR-6 - Quarry Mountain Incorporated, to a special time of 7:00 p.m. on August 15, 1988 at the site for review of colors and that they be in strict accordance with the Town Council wording and that clear stains are to be put on separate materials other than the house.

All ayes. Motion passed unanimously.

2.V-2238 - Robert W. Brennan, 444 Scenic Avenue, A/P Nos. 7-031-12 and 7-031-13, a third story variance, a 9 foot frontyard variance to construct a garage within 11 feet of the front property line, and a 3 foot frontyard variance to construct an open deck within 11 feet of the front property line.

The applicant was present.

Lisa Newman presented the staff report.

Mr. Brennan said the issues regarding drainage and parking have all been addressed and he has submitted a landscape plan for tonight's meeting.

Jean Goodman, 445 Scenic, stated the frontyard variance and driveway could be considered a detriment. She did not feel the 20 foot open ditch would be long enough to go past the two houses and would leave the Town and Mr. Brennan liable. She felt a bond should be required for any roadway damage and that a drip system be installed.

Johnathan Braun, 479 Scenic, asked for an explanation on the landscaping.

Mr. Brennan said the landscaping was going to cascade over the retaining wall with algerian ivy and honeysuckle and trumpet vines by the garage. He added that there is some concern with the structural engineer that by having two retaining walls as staff requests it would require additional grading and increase the mass and the height. Lisa Newman said there will be the additional height but the space between the walls could be landscaped to screen the height.

Johnathan Braun, 479 Scenic, thought it would be preferable to plant large shrubs or trees in front of the garage which would provide a shield and help hold the hill. He said the driveway creates a detriment to the neighborhood because it is reducing on street parking by two spaces.

Hannah Hochstaedter, 460 Scenic, said the new house will create additional water runoff.

Millie Goodman, 445 Scenic wanted to know the distance of the driveway entrance from her garage.

Commissioner Sias agreed that a bond be required and large trees be added in front of the garage to shield and would favor two retaining walls as staff recommends.

Commissioner Julin felt the variance was the best solution for this lot and agreed that shrubs should be added to the front of the garage. She did not care if the retaining wall was split or one wall. Regarding drainage, she felt it was an engineering issue and would rely on staff.

Commissioner Manning echoed Commissioner Julin.

Commissioner Yarish proposed a bond in the amount of \$10,000. He was in favor of one retaining wall and proposed oleanders or shrubs for screening the garage. He thought

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that staff should look into having the drainage pipe go down Scenic and investigate the Town incurring the cost.

Chairman Hayes favored a double retaining wall, the bond for street repair, a drip system and shrubs or trees in front of the garage.

M/S Yarish, Julin, to approve V-2238 - Robert W. Brennan, 444 Scenic Avenue, A/P 7-031-12 and 7-031-13, a third story variance and a 9 foot frontyard variance to construct a garage, and deck within 11 feet of the front property line on the grounds that: 1. due to special circumstances applicable to the property specifically due to the steep slope of the lot and desire to have covered parking similar to other properties in the area, stepping back the garage and to living levels is the most sensitive way to accomplish this. The strict application of the zoning ordinance or regulation deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification; and the granting of a 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 many homes in the area are two story with a detached garage or parking deck located at a level above or below the street; the granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner specifically, the granting of the third story variance may be considered necessary for the preservation of substantial property rights in that the ability to construct a single family home of adequate size while providing covered parking would be difficult to do in less than three stories. 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. The conditions number 1 through 5 as stated in the staff report dated August 1, 1988 and add the following: The Town staff should make a study of dealing with the discharge water from the most downhill point of the neighboring houses to the lower section of Scenic Ave. Landscaping to be included as indicated in drawings received July 28, 1988 however substantial screening between the house and the street should be included and the provision for drip irrigation system should be closely adhered to. A bond of \$10,000 should be posted in the building department towards repairing the adjacent roadway resulting in damage incurred by construction process. This is in reference to drawings received by the Town on June 9, 1988 and July 26, 1988.

M/ Sias to amend the motion to require the landscaping include double retaining walls to soften and screen as long as the building does not cause additional grading undue hardship on roads.

Commissioner Yarish did not feel it necessary to have the double retaining wall included in his motion. The consensus was not to include it. Died for lack of second.

Ayes: Julin, Sias, Yarish, Manning
Noes: Hayes

Motion passed. Applicant advised of the ten day appeal period.

3. V-2225 - Eric Ainsworth, 95 Tamalpais Avenue, A/P No. 5-242-11, a 12 foot rear yard variance to construct a two car garage within 8 feet of the rear property line with a six inch roof overhang.

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The applicant was not present.

Lisa Newman presented the staff report.

The consensus of the Commissioners was that they agree in concept to what is proposed by the applicant and would like to see more formal drawings at the next meeting.

4. V-2172 - Libby Hayes, 14 Elm Court, A/P No. 7-081-15, a 15'9" rearyard variance and a 3'3" south sideyard variance for an accessory building addition to be within 4'3" of the east rear property line and within 4'9" of the south side property line, with an 18 inch roof overhang.
AFTER THE FACT

The applicant was present.

Lisa Newman presented the staff report.

Libby Hayes stated that she has already replaced part of the fence as requested by staff in the near future will replace the rest. Also, she has purchased gutters and will be installing them.

Bill Hendrickson, is representing his daughter who is the adjacent property owner. He said the windows that face her property is on two levels so the fence would not hide the second level. He said the hot water heater is exposed and needs to be inclosed. There still seems to be some questions about the applicant's property line and asked if staff is satisfied. He also wondered if the width of the lot at the rear property line was accurate. Staff responded that the numbers were accurate throughout the report. He wondered how the inspector would verify that the structure was built up to code because it is after the fact.

Chairman Hayes stated that perhaps sections of the building will have to be exposed to verify the building codes.

Lisa Newman said a site survey was performed by J. L. Engineering and they said the distance from the new addition of this unit to the property line is 4'3".

Commissioner Julin felt it was an intrusive building and would not support this application if the building was not already constructed, therefore cannot support now.

Commissioner Manning thought a 6 foot fence would provide privacy for the neighbor.

Commissioner Yarish said although he did not want to encourage After the Fact work he was leaning towards approval because the larger issue is privacy and it could be mitigated by the fence.

Commissioner Sias said he will go along with staff's findings but wanted to add the following: 1. Complete the covering of the water heater 2. Board up the loft window 3. landscaping to be funded by applicant to screen 4. gutters to be installed. He said for the most part the neighborhood accepts the variance.

Mr. Hendrickson said that many of the people who signed the petition in favor of the applicant cannot view the structure and are tenants, not property owners.

Chairman Hayes said that there is neighborhood goodwill and even though many are not owners, they still live in the neighborhood. He thought rather than board up the loft window anything obscure would accomplish the goal.

Ms. Hayes suggested glass blocks in place of clear windows.

M/S Sias, Yarish to approve V-2172 - Libby Hayes, 14 Elm Court, A/P 7-081-15, a 3'3" sideyard variance and a 15'9" rearyard variance to construct an accessory building addition within 4'9" of the south side property line and 4'3" from the east rear property line - After the Fact - on the basis: Due to special circumstances applicable to the property that may deprive it of privileges enjoyed by others in the vicinity are the odd lot configuration, the size of the rearyard and the location of an existing accessory building. The width of the lot at the rear of the property is approximately 32 feet and the depth of the lot from the residence to the end of the parcel (i.e. rear yard) averages approximately 35 feet. In order to construct an accessory building of reasonable size for studio purposes and maintain adequate outdoor living space, side and rear variance may be necessary. The granting of the variance will not constitute a grant of special privileges in that there are others in the neighborhood that have accessory buildings within the setbacks. This is an addition to an existing accessory building and it makes more sense to add to that then to call for the construction of a separate structure. The granting of the variance is necessary for the enjoyment of substantial property rights in that the applicant desires to have studio space at the residence. SAMC code 10-3.502 permits accessory buildings for which the use is incidental to that of the main building. The proposed addition meets that requirement in that it is proposed to be used for an art studio and not a second living unit. The additional conditions as listed in the staff report dated August 1, 1988 and that the second story loft windows be replaced with opaque glass to protect the privacy of the adjoining yard; the structure to hide the water heater be completed; vines be planted at the base of the building and trellised up the building to soften the impact of the building.

Yarish to amend opaque glass with obscure.

Ayes: Sias, Yarish, Manning, Hayes
Noes: Julin

D. PUBLIC HEARINGS

1. AR-6 - Quarry Mountain, Incorporated, End of Tomohawk Drive, A/P Nos. 177-220-50, 177-250-40 and 177-250-41, architectural review of Unit 1.

The applicant was present.

Mr. Roberto presented the staff report.

Mr. Elliott said that this is the same as lot 6 with the exception of nestling the house into the hill. This is on 10 plus acres of land. The colors he proposes are K 18-2 for the trim, K 19-3 Kelly Moore paint for the body and an alternate to be Olympic cedar semi transparent stain. The roof material to be asphalt shingles.

Commissioner Julin noted that a fireplace is missing on the drawing.

All the Commissioner's were in support of the application.

M/S Yarish, Manning, to adopt the resolution attached to the staff report for the meeting date of August 1, 1988 with the deletion of exhibit B and add that colors are not approved as part of this action but will be discussed on the meeting of August 15, 1988 and that the colors will be viewed on the site.

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

2. V-2241 - Mr. & Mrs. Pichignau, 117 Crescent Road, A/P 7-232-35, a 5 foot sideyard variance on the west side to construct a stairway within 3 feet of the property line, for a 8 foot west sideyard variance to reconstruct an existing retaining wall, a 6 foot east sideyard variance to construct a room addition within 2 feet of the property line and a third story variance. CONTINUED AT THE APPLICANT'S REQUEST TO THE FIRST PLANNING COMMISSION MEETING (TO BE SCHEDULED) IN SEPTEMBER, 1988.

3. V-2240 - Carvel Johnson, 296 Redwood Road, a/P Nos. 7-095-36 and 7-095-34, variance to reconstruct a parking deck with enclosed space below within 0 feet of the front property line requiring a 20 foot frontyard variance.

The applicant was present.

Lisa Newman presented the staff report.

The Commissioners were all in favor of the application.

M/S Yarish, Julin, to approve V-2240 - Carvel Johnson, 296 Redwood Road, A/P Nos. 7-095-36 and 7-095-34, variance to reconstruct a parking deck with enclosed space below within 0' of the front property line requiring a 20' frontyard variance subject to the condition that the enclosed storage space not be used as a living space on the grounds that: Due to special circumstances applicable to the property, specifically that would deny it of privileges enjoyed by others in the vicinity would be the steepness of the lot. The variance would not be a grant of special privileges in that the parking decks are a common way to provide parking in this area due to steep hillsides. The granting of the variance is necessary for the preservation of substantial property rights in that without a frontyard variance, off-street parking would not be possible due to the steepness of the lot. 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. This is in reference to drawings submitted dated July 19, 1988.

All ayes. Motion passed unanimously. There is a ten day appeal period.

E. APPROVAL OF MINUTES - July 18, 1988

M/S Yarish, Julin to approve minutes of July 18, 1988 with the following corrections: page 2, paragraph 7, delete ..."determined that under the circumstances of the particular case, be";...:page 3, end of paragraph 6, delete ..."of a significant".. and insert .."an insignificant".

Ayes: Julin, Sias, Yarish, Hayes
Abstain: Manning

F. ADJOURNMENT

The regular meeting of the San Anselmo Planning Commission was adjourned at 12:30 a.m. to the next special meeting on August 8, 1988 for the public hearing on the draft General Plan.

BARBARA CHAMBERS