

PLANNING COMMISSISON MINUTES
MEETING OF JULY 10, 1989

The special meeting of the Planning Commission was called to order by Chairman Sias in the Council Chambers at 8:00 p.m. Staff present: John Kottage, Director, and Lisa Wight, Planner.

A. ROLL CALL

Commissioners Present: Hayes, Harle, Yarish, Kanis, Sias, Kroot

Commissioners Abent: Julin

B. WORKSHOP

Jacob Friedman, 54 Miwok Drive, A/P 177-263-01, workshop to discuss implementing the interim ordinance with regard to an application for new single family dwelling.

The applicant and his architect Bill Pashelinsky, were present.

John Kottage presented the staff report.

Commissioner Kroot asked if staff anticipated additional projects coming in prior to the completion of the Zoning Ordinance. Mr. Kottage said he did not think there would be many because of the restriction from MMWD for water hook ups.

Mr. Friedman said he only wants to build a single family residence and he has gone to quite an expense already on this project to just find out there additional restrictions and possible delays.

Bill Pashelinsky, Architect, thought they only had to go through the building process and the applicant has spent a great deal of time and money. He was not aware there was a special process that had to take place by the Planning Commission and it is unclear as to why the applicant has to have his project held up now.

Mr. Friedman said he complied with all the work from the Town Engineer, including additional drainage requirements and thought he would have his building permit by the beginning of July.

Jim Hitchner, 200 Oak Springs Drive, said he has been design a major remodel of his property over several years and will be submitting plans in the third quarter of this year. He has had to change his plans several times because the codes change so frequently.

John Kottage said that the issue before them is for new home construction however a remodel in the conservation zone is also worthy of discussion.

Commissioner Kanis thought that the intent of the ordinance was the urgency to regulate future projects in the hillside and therefore he did not feel that intent should be ignored until the zoning ordnance is in place.

Commissioner Harle said the R-1H zone is good for ridge top homes because of the visual hillsides need to be addressed separately from the flat land. Therefore, whatever designs are for review in R-1C should be less stringent than for the R-1H. He thinks the 4th recommendation on the staff report stating that no design review until the new zoning ordinance is adopted would be the procedure to follow. He also did not think it appropriate to put the burden of waiting on the applicant and would not want there to be a delay in processing the application for 54 Miwok.

Commissioner Yarish said there was extensive dialog during the General Plan relating to the Conservation zone and it

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was the consensus that there be some controls. The language in the R-1H really would not apply because of the parcels being less than an acre in size. It was his understanding that the R-1H design review was to apply to new construction in the interim and pursue the zoning ordinance update and handle remodels at a separate time.

Commissioner Kroot said he feels uncomfortable applying standards to this applicant who has had building plans in the department for six weeks. Also the house is in the back side of the hill that looks to the Town's vacant land and the Town has nothing to gain by making the applicant wait. He would like to see development for R-1C as well as additions that greatly increase the size of the existing house by 1,000 sq feet or even double in size come before a review process. He did not see how we can use standards until they are in place and the existing applications should be grandfathered.

Commissioner Hayes said they should look at the intent which was to protect the hillside from vulnerability for development and the option to do nothing is not consistent with the General Plan but to not process application would be an overkill. It seems that not all R-1C houses need design review but some would. We know which applications need design review as they come before the Planning Commission. There should be some review on hillsides and perhaps use the R-1H process but apply it selectively. He was in support of somewhere between recommendations 2 and 3.

Chairman Sias said the intent of the General Plan is to protect the hillsides and to do nothing is not consistent with the policy. He agreed with Commissioner Hayes that there should be a review on a case by case basis.

Commissioner Harle said that there probably won't be that many applications in the interim but if the Commission has to deal with each on a case by case basis we will have to be very careful to be equitable.

Commissioner Kanis agreed there probably will not be many applications in the interim but it would be derelict to do nothing.

Commissioner Kroot said there needs to be a workshop to clearly define the requirements. He noted that the height requirement for R-1H is 30' or 18' depending where the parcel lies and for R-1 it is 35 feet.

Commissioner Hayes said he would like the design review process followed from the R-1H process. Therefore he would like to see elements of Chapter 4 of the Town Code (Design Review) and elements of the R-1H applied to the R-1C zone as necessary for consistency with the General Plan.

John Kottage said the General Plan leaves a lot of room for interpretation and while the zoning ordinances is the place for precise definition of rules. He therefore recommended that the Planning Commission hold a special meeting on how to deal with R-1C parcels. The applicant has the right to appeal to the Town Council for an exception prior to the interim ordinance

M/S Hayes, Yarish, to recommend to the Town Council the adoption of the full R-1C design review procedures adopted pursuant to the General Plan with the following process to be used to review applications for R-1C: 1. Case by case review of each application be carried out to identify those applications to be subject to design review; 2. Application of design review according to the principles and criteria set forth in Chapter 4 - Design Review, of the San Anselmo Municipal Code, and subject to the elements of the R-1H

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Ordinance as necessary to ensure consistency with the General Plan.

Ayes: Kroot, Yarish, Kanis, Hayes, Sias
Noes: Harle

Motion carried. Audience advised of the ten day appeal period.

A workshop was scheduled on July 24, 1989 for consideration of standards for R-1C.

There was a discussion as to whether or not Jacob Friedmans application for 54 Miwok was to be heard at the meeting of the 24th. John Kottage said that the Commission could only make a recommendation to the Council.

Commissioner Harle said that this applicant has already had his application in prior to the Town Council action of 6/13/89 and therefore should be given an exception to the design review.

Commissioner Yarish recommended an exception as long as they apply with all the R-1 requirements.

Commissioner Kroot noted that this application would have to apply for a height variance under R-1 requirements..

Commissioner Hayes said he was unable to make a decision without looking at the application which has not yet been presented to the Commission.

Chairman Sias echoed the comments of Commissioner Hayes.

C. CONTINUED PUBLIC HEARINGS

1. U-629/U-633 - Lenny Lerner, 1535 Sir Francis Drake Boulevard, A/P 5-153-01, six month review of use permit to allow: 1) automotive repairs; and 2) cellular telephone sales, service and installation.; and review of current proposal for two canopies on the west side of the building - CONTINUED TO JULY 17, 1989.

1. V-2288 - Dan and Kathleen Hilken, 46 Forest Avenue, A/P 7-013-10, a 20 foot rearyard variance and a 6 foot west sideyard variance to construct a two car parking area with retaining walls within 0 feet of the rear property line and within 2 feet of the west side property line; a 20 foot rearyard variance to construct a two car garage below the dwelling within 0 feet of the rear property line; and a 20 foot rearyard variance, a 15.5 foot frontyard variance, and an 8 foot east sideyard variance to reconstruct the dwelling and construct first and second floor additions within 0 feet of the rear property line, within 4'6" of the front property line and within 0 feet of the east side property line, with a 1 foot roof overhang (the construction of the parking area, garage, first and second floor additions, entry porch, and reconstruction of the dwelling are proposed to encroach onto the Glen Road right of way and will necessitate the applicants enter into an encroachment agreement with the Town); a variance for the lot coverage to be 47 percent; and a third story variance.

The applicants and their architect, Marshall Balfe, were present.

Lisa Wight presented the staff report.

Marshall Balfe noted that it was always the intent to build a garage there except it would create a third story and did not want to have another variance. But when they realized that the stairs created a third story the applicants decided

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to include the garage in the application. Having a garage will allow the entire front of the house to be landscaped which would be more attractive. He noted there is no guest parking in the area and this design provides off street parking.

Dan Hilken said that he had the approval of his neighbor at 52 Forest and noted that without the second story they would not have adequate living space. The second story is stepped back so it will not have a looming appearance.

Kathleen Hilken said that the 2nd story really looks like a first story looking down from Forest Avenue.

Chairman Sias asked why the applicants don't use the area proposed for the garage as living space. Kathleen Hilken said that the area is dreary and does not have much light. They have also been told that it is very damp. Mr. Balfe added that two of the sides will have to have a retaining wall and that would not allow for much light.

Commissioner Harle was in concurrence with staff's findings. He said this house looks like a fairly large house for such a small lot and he considered it overdevelopment.

Commissioner Yarish concurred with Commissioner Harle, adding that it was a postage stamp lot. He would like to see the house scaled back.

Commissioner Kroot stated that this application was referred back to the applicants at a subsequent meeting with a different tone than is being implied tonight. All the neighbors are in favor of this project, it is a benefit to the neighborhood, it is a good design and he is in support of this project.

Commissioner Harle said he was not at the first meeting and usually staff includes a copy of the minutes for review. The minutes were not included and therefore he was unaware of what transpired at the last meeting.

Mr. Balfe said the only delay in having this project continued was for renoticing of the first floor and based on the positive tone of the last meeting we went ahead and applied for the variances assuming the existing structure would be demolished.

Commissioner Hayes said the building will be reconstructed on the existing footprint and they are only adding a second story which is setback. They are constructing a house that is not very large, and the 2nd story is only 900 square feet. He did not know how it could be redesigned to make it better and Commissioner Hayes did not think it likely that Glen Road would be widened in the future.

Commissioner Kanis thought it was a fine job in developing the small lot and he spoke personally with the neighbor at No. 52 Forest and said he was in support of the project.

Chairman Sias said the design was excellent and the new house will be in the existing footprint, the neighborhood supports the project, 2,266 square feet for a house is a normal size, and the crawl space is damp and dark and going up is the logical way to go.

M/S Kroot, Kanis, to approve V-2288 - Dan and Kathleen Hilken, 46 Forest Avenue, A/P 7-0013-10, a 20 foot rearyard variance and a 6 foot west sideyard variance to construct a two car parking area with retaining walls within 0 feet of the rear property line and within 2 feet of the west side property line; a 20 foot rearyard variance to construct a two car garage below the dwelling within 0 feet of the rear

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property line; and a 20 foot rear yard variance, a 15.5 foot front yard variance, and an 8 foot east side yard variance to reconstruct the dwelling and construct first and second floor additions within 0 feet of the rear property line, within 4'6" of the front property line and within 0 feet of the east side property line, with a 1 foot roof overhang (the construction of the parking area, garage, first and second floor additions, entry porch, and reconstruction of the dwelling are proposed to encroach onto the Glen Road right of way and will necessitate the applicants enter into an encroachment agreement with the Town); a variance for the lot coverage to be 47 percent; and a third story variance on the basis: 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 an identical zoning classification, and 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 a very small hillside lot with an existing delapidated residence that the owners are replacing in the same spot; and 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner specifically the petitioners are building a moderate size 2,200 square foot house with two car parking and a typical size house; and 3. 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 the new house will be a benefit to the neighborhood and they will create offstreet parking on a street that is in need of off street parking. This is based on drawings dated 6-19-89.

Ayes: Harle, Hayes, Kanis, Kroot, Sias
Noes: Yarish

Motion carried. Audience advised of the ten day appeal period.

2. V-2290 - John R. Bobay and Susan P. Corley, 50 Hillcrest Court, A/P 5-092-26, a 6" south side yard variance to construct a first story addition within 7'6" of the south side property line; and a 2 foot south side yard variance to construct first and second story addition within 6 feet of the south side property line, with a 2.5 foot roof overhang.

The applicant and his architect, Mr. Wilkinson, were present.

Lisa Wight presented the staff report.

Mr. Wilkinson stated that the applicant had no desire at this time to have a second unit and that they will be using the crawl space. The most economical way to go is up.

All the Commissioners were in support of this applicant in that the encroachment is very minor and the applicant said the neighbors are in support.

M/S Yarish, Kroot, to approve V-2290 - John R. Bobay and Susan P. Corley, 50 Hillcrest Court, A/P 5-029-26, a 6" south side yard variance to construct a first story addition within 7'6" of the south side property line; and a 2' south side yard variance to construct a second floor living addition within 6' of the south side property line, with a 2.5 foot roof overhang on the basis: 1. due to special

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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 an identical zoning classification, and 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 the existing plan of the house suggests this kind of addition and the encroachment in the side yard is minor and the affected neighbors are in strong support; and 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner because this addition is necessary to support a growing family; and 3. 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 improvement in such neighborhood. This is based on drawings dated 5/9/89.

All ayes. Motion unanimously passed. The audience was advised of the ten day appeal period.

3. V-2291 - Mark and Sahar Demos, 9 Southview Terrace, A/P 6-156-06, a height variance for an 8 foot high fence to be constructed on an open deck which is up to 2'9" above grade, for an overall maximum height of 10'9" above grade - AFTER THE FACT.

The applicant was present.

Lisa Wight presented the staff report.

All the Commissioners approved of the variance.

M/S Harle, Kroot, to approve V-2291 - Mark and Sahar Demos, 9 South View Terrace, A/P 6-156-06, a height variance for an 8 foot high fence to be constructed on an open deck which is up to 2'9" above grade, for an overall maximum height of 10'9" above grade on the basis: 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 an identical zoning classification, and 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 the placement of the pool and requirements of privacy and use of the pool requires a unusually high fence; and 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and 3. 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 based on drawings provided for tonight's meeting of 7/10/89.

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

4. V-2290A - Norman Vachon, 12 Fern Lane, A/P 7-015-02, a 20 foot frontyard variance and an 8 foot south sideyard variance for the two required on-site parking spaces to be within 0 feet of the front and south side property lines;

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and a variance for the two required on-site parking spaces to be substandard in size (the garage was converted to living area) - AFTER THE FACT.

The applicant was present.

Lisa Wight presented the staff report.

Mr. Vachon said that to build out or up would be difficult and costly and the garage has not been used in four years. Converting the garage to a dining area was ideal. He said they have parked in the right of way for 1/2 years and have heard no complaints. He showed a signed petition from the neighbors that they were in support of his project.

Commissioner Hayes said he understands staff's concerns and is also sympathetic that the house was less than 800 square feet and that there was a need to expand. In addition applicant said he would be willing to permanently pave the driveway.

Commissioner Kanis said he would prefer the addition to the rear of the property but because of the small size he was inclined to approve.

Commissioner Harle was sympathetic with the concerns as mentioned by the applicant but would have a hard time making the required findings for approval.

Commissioner Yarish said he was willing to support the application because it is a time house and in addition, the neighbors supported the project.

Commissioner Kroot and Chairman Sias approved of the application.

M/D Kroot, Yarish, to approve V-2290 - Norman Vachon, 12 Fern Lane, A/P 7-015-02, a 20 foot frontyard variance and an 8 foot south sideyard variance for the two required on-site parking spaces to be within 0 feet of the front and south side property lines; and a variance for the two required on-site parking spaces to be substandard in size (the garage was converted to living area) on the basis: 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 an identical zoning classification, and 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 the property is very small and the house is on a very small lot and very close to the front property line; and 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner in that the owner needs two off street parking spaces on this small lot; and 3. 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 one car already has been parked in this area and the applicant has support by a great many of the neighbors. This is based on the drawings dated May 11, 1989.

Ayes: Harle, Hayes, Kanis, Kroot, Yarish
Noes: Sias

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Motion carried. Audience advised of the ten day appeal period.

5. V-2292 - Raymond and Doreen Aguirre, 3 Hooper Lane, A/P 7-012-13, a 4 foot north sideyard variance to construct a new dwelling within 4 feet of the north side property line, with a 2 foot roof overhang.

The applicants were present.

Lisa Wight presented the staff report.

Raymond Aguirre stated that the reason for the variance is because of the placement of the bay tree that is 18'6" in circumference. All neighbors are in agreement except for the neighbor at 99 Landsdale. He noted that the house will only be 1,500 square feet which is not excessive in size.

Commissioner Kanis asked if they could build the house around the tree. Mr. Aguirre said it is a pre fab house and that is not part of the design.

Commissioner Kroot suggested a two story house which would provide additional space in the back yard. Mr. Aguirre said that was not possible because of the tree and presented photographs to the Commission.

Mr. Bonadeo, 99 Landsdale wanted the applicant' to reconstruct the new dwelling in the same location as the old one.

Mr. Bonadeo's son said they would not object to a 6 foot sideyard variance to allow an additional 2 feet between the properties.

Mr. Aguirre agreed to a two foot northeast sideyard variance if that would satisfy the neighbor.

All the Commissioner's were in agreement with the variance with the two foot northeast sideyard variance as amended.

M/S Hayes, Kroot, to approve V-2232 - Raymond and Doreen Aguirre, 3 Hooper Lane, A/P 7-012-13, a 2 foot northeast sideyard variance to construct a new dwelling within 4 feet of the southwest side property line, with an 18 inch roof overhang on the basis: 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 an identical zoning classification, and 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 the small size of the lot and the existence of the large heritage tree and the configuration of the structure on the lot; and 2. The granting of the variance is necessary for the preservation, and enjoyment of substantial property rights of the petitioner; and 3. 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 based on drawings dated 6/6/89.

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

E. BUSINESS ITEM

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Brian Wittenkeller, 150 Spring Grove Avenue, a/P 6-221-04, appeal of Planning Director's interpretation of the San Anselmo Municipal Code Zoning Ordinance pertaining to the erection of accessory structures.

The applicant was present.

Lisa Wight presented the staff report.

Commissioner Hayes read from SAMC Section 10-6.102(d) regarding second unit definition and stated that "may be" used as a 2nd unit and not "should be" and in addition the unit would be considered a second unit if there were cooking facilities. This unit does not show cooking facilities.

Mr. Wittenkeller said that it was economically feasible to have an office on his property rather than pay rent to someone else.

Commissioner Kanis asked the reason for the bath tub in the office. Mr. Wittenkeller said that is not uncommon in offices.

Commissioner Harle concurred with the comments of Commissioner Hayes.

Commissioner Yarish was in support of the application and applauded the design.

Commissioner Kroot said it looks like an office.

Commissioner Hayes noted that the applicant should come to the Town to apply for the appropriate use permits if and when he decides to use the building as a second unit.

Chairman Sias was in support and wanted assurance from the applicant that no cooking facilities would be installed in the unit.

M/S Hayes, Kroot, to grant the appeal for Brian Wittenkeller, 150 Spring Grove Avenue, A/P 6-221-04, regarding the Planning Director's interpretation of the San Anselmo Municipal Code Zoning Ordinance pertaining to the erection of accessory structures on the grounds that: 1. The primary criteria for establishing a second unit are cooking facilities, and that is not made a part of this application; 2. The provision of the Code cited in the staff report is permissive, giving latitude in making a determination, and the Commission does not make the findings that this is a second unit. This is based on plans dated December 27, 1988.

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

F. APPROVAL OF MINUTES: June 19, 1989

M/S Yarish, Kanis to approve the minutes of June 19, 1989 with the following amendments: page 3, paragraph 4, change "...gin" to "in"; ..."materially" to "...materially"; paragraph 10, change ..."fir" to ..."for"; page 5, paragraph 4, add "...and is a more..."; paragraph 5, change "...behind the garage..." to "...behind the tree..." .

Ayes: Harle, Kroot, Kanis, Yarish, Sias
Abstain: Hayes

The special meeting of the Planning Commission was adjourned at 11:50 p.m. to the next regular meeting of July 17, 1989.

BARBARA CHAMBERS