

PLANNING COMMISSION MINUTES
MARCH 6, 1989

The regular meeting of the San Anselmo Planning Commission was called to order at 8:00 p.m. on March 6, 1989, in the Council Chamber by Chairman Sias. Staff present: John Roberto, Planning Consultant, and Lisa Wight, Planner.

A. ROLL CALL

Commissioner's present: Harle, Julin, Yarish, Kroot,
Sias

Commissioner's absent: Hayes

C. CONTINUED PUBLIC HEARING

V-2268 - Cyrus Ansari, 94 Berkeley Avenue, a/P 5-165-35, an 18 foot rearward variance to construct a retaining wall within 2 feet of the rear property line.

The applicant was present.

Lisa Wight presented the staff report, adding comments from the Assistant Director which state the retaining wall is necessary as it will improve the health and safety of the neighborhood and denial could be detrimental to the applicant and the down hill neighbors. The exact limits of construction and required height of the wall would be determined in the field by the soils and structural engineers but now to exceed 5 feet. A topographical map is to be prepared as a condition of issuance of a building permit for the wall and the backfill behind the proposed retaining wall to be no flatter than: (A) the existing grade, or (B) a slope of 2 to 1.

Russell Kawahata, 84 Berkeley, was in support of the retaining wall but would like to see the height minimized and as far away from their property as possible.

Marlene Kawahata, 84 Berkeley wanted to insure that fill would be to a minimum and was concerned that the fence the applicant has installed exceeds the 6 foot height limit.

Lisa Wight said the height of the fence is a building matter and the applicant has until March 20th to comply with removing the fence.

Mr. Ansari said the retaining wall was necessary for the health and safety of his neighbors and himself and he has agreed not to exceed 5 feet and could not spend the additional money to have his engineer present tonight.

Commissioner Julin supported the idea of the retaining wall because of staff's recommendations however thought the soils engineer should have been present tonight as the Commission had requested at the previous meeting.

Commissioner Harle supported the retaining wall based on staff's recommendations that it is for safety.

Commissioner Yarish was still concerned about the lack of information from the soils engineer and thought the wall should be kept as small as necessary.

Commissioner Kroot liked the fact the retaining wall will not exceed 5 feet and wanted to add that vegetation should be planted to conceal the wall. He agreed with the conditions as suggested by the Assistant Director.

Chairman Sias was concerned that the applicant did not bring the soils engineer however was willing to support the wall based on the staff report and the conditions by the Assistant Director. He added that perhaps a statement that unnecessary fill be removed and the retaining wall to be

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kept to a minimum size to reduce the impact on downhill neighbors should be included in the motion

M/S Kroot, Yarish, to approve V-2268 - Cyrus Ansari, 94 Berkeley Avenue, A/P 5-165-35, an 18 foot rear yard variance to construct a retaining wall within 2 feet of the rear property line; 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; 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 the hill needs to be stabilized; the granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner; 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 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 wall is necessary for the rights of the petitioner and the wall will be no higher than 5 feet, concealed by vegetation. This approval is conditioned upon the following: 1. The exact length of the wall should be determined in the field by the soils and structural engineer and also that the height not exceed 5 feet, which will be determined by the soils and structural engineer; 2. The soils and structural engineer should inspect the wall during construction; 3. the slope behind the wall shall be no flatter than the existing grade or 2 to 1; 4. the wall should be sealed with vegetation and the slope stabilized with vegetation as approved by staff; 5. loose fill shall be removed from the site as directed by staff. This is based on drawings dated March 6, 1989.

M/Yarish, Kroot, to amend to propose language as follows: That prior to issuance of a building permit, the Town will require a certificate from the soils engineer stating that the wall is no larger than necessary to comply with the safety needs of the two affected properties.

M/Sias, variance of up to 18 feet, extending no further than two feet from the property line. Motion died for lack of second.

Ayes: Julin, Harle, Yarish, Kroot, Sias

The audience was advised of the ten day appeal period.

C. BUSINESS ITEM

1. AR-4 - Terry Schenk, off Cherne Lane, A/P Nos. 5-300-24 and 5-300-28, interpretation of Planning Commission's design review approval regarding the timing of the garage construction. The consensus of the Commission was to hear this item after PP-12 for Terry Schenk since the two are related.

D. PUBLIC HEARINGS

1. PP-12 - Terry and Eugene Schenk, and Kintetsu Enterprises of America, off Cherne Lane, A/P Nos. 5-300-15, 5-300-24 and 5-300-28, preliminary plan review of the creation of a new building site by combining a portion of the Kintetsu property (A/P 5-300-15) with the Schenk property (A/P Nos. 5-300-24 and 5-300-28) in an R-1 H District. Future public hearings will be required for a

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rezoning, parcel map, design review, and environmental review.

The applicants and their attorney, M. Donald Katz, were present.

John Roberto presented the staff report.

Mr. Katz described the history of the lot, stating that this parcel was split upon the recommendation of the Planning Consultant and the applicants spent in excess of \$18,000 for geological, architectural and soils reports and were then told there could only be one home per acre. It was unfortunate his clients were not told this in the beginning but rather than contest this the Schenks went to the Kintetsu Group for the additional land needed to create the minimum of one acre per parcel. Mr. Katz said the Kintetsu property will be very difficult to build on and the Schenk's have a site that is buildable. This will not increase the density because the Kintetsu Group will be decreasing the buildable homes from 8 to 7 to allow the Schenks to build. Mr. Katz said the proposed site of the dwelling will be less visible than that of the Kintetsu Group. The Planning Commission, in the past, has already approved a 1,000 square foot, three car garage, at the location of the proposed new home site. Therefore a structure would be built on this visible slope whether or not the new building site is approved. The Schenks content that a new home at the location would be more aesthetically pleasing than a garage structure and are therefore asking the Commission to take this into consideration.

Enid Berman, 19 Cherne Lane, asked for confirmation on whether a 1,000 square foot garage was approved and wondered how this new proposed dwelling would be affected by the MMWD moratorium.

Terry Schenk said the approval for the garage is 1,000 square feet and the proposed dwelling will be 2,500 - 3,000 square feet but two stories, so the footprint would be approximately the same and the garage.

Mr. Gambardella, 4 Rancho Drive, was concerned about the runoff. He presented photographs from the 1982 flood to show the Commission what could happen if drainage is not addressed. He noted that any construction that takes place on the Kintetsu or Schenk property will drastically affect the downhill neighbors.

Mr. Katz said there could be conditions placed on the application to ensure protection for the neighbors

Terry Schenk said the proposed lot drains away from Rancho and is on the slope going towards Woodside. There is a 12 foot drain that will take the water runoff.

Mr. Eugene Schenk said the lot could also be accessed from Lillian Court.

Mr. Roberto noted that there are soils reports that address the Schenk property but none which address the Kintetsu property, but staff has not requested the information at this time to keep the costs to a minimum.

Chairman Sias asked staff what the conditions were on the approved garage.

Mr. Roberto presented the approved drawings dated 1987, but added there seems to be a discrepancy of where the applicant's think the placement of the garage will be and what the drawings show. He added that landscaping was however a part of the condition of approval for the garage.

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Commissioner Harle said there seems to be confusion about placement of the garage but he was inclined to approve the lot split with the reconfiguration of the building site. He would like to see the drainage issue resolved.

Commissioner Yarish said that visual impact is important and if access could be from the lower portion of the lot it would be less of a visual impact therefore he was leaning towards approval. He did question however if Kintetsu was allowed 8 building sites.

Mr. Roberto said that Kintetsu was allowed up to 8 for this development but it is yet to be determined the exact number.

Commissioner Kroot was in support of the applicants previous proposal and thinks this is an even better configuration. He feels the Schenk property would be a better location to build a house than the Kintetsu property, adding there are severe drainage problems on the Kintetsu property and it is even questionable if it can be built on at all. He wondered where placement of the garage would be if the house was built in its place.

Terry Schenk said the garage could be built behind the existing dwelling at No. 3 Cherne Lane but would be willing to go through the design review process again.

Commissioner Julin is sensitive to any building in the R-1H district. Her main concern was that this applicant is asking to take one unit from the Kintetsu property and build on a hillside. She has not changed her reasons for denial and supported the previous resolution for denial.

Chairman Sias said this would be a high profile residence and supports the resolution for denial from the previous application. He thought it was contrary to the General Plan in that the General Plan supports reducing visibility of the hillside. He thought the proposed structure would be very imposing. The Town originally zoned this property to accommodate two homes and now the applicant is asking for the third.

Mr. Roberto suggested that the motion be made in the form of a resolution and staff can come back at a subsequent meeting with the resolution.

Mr. Katz was hoping the final vote could take place tonight because there is a quorum.

Commissioner Julin said there are still more unanswered questions relating to what was approved previously about the garage before a decision could be made.

Commissioner Harle would rather wait until staff prepares a resolution and perhaps at the next meeting there will be a full Commission to vote.

Mr. Katz thought it incumbent on the Commission to take a vote tonight.

Commissioner Kroot asked what the normal course of action would be?

Mr. Roberto said the normal procedure is to prepare a resolution and then have the Commission take a vote. Also Staff will have to prepare an Environmental Clearance and there will have to be a vote on the negative declaration. He stated that a EIR was done for the previous application but not for this one.

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Commissioner Harle said the negative declaration has to be noticed before a vote could be taken.

The consensus of the Commission was to have staff prepare a resolution for approval.

Mr. Roberto said the resolution would be for approval for the division of the Schenk and Kintetsu property, to include the improvements on Cherne Lane and the turnaround, including the comments that this building will create less of an impact, that fire conditions be met, information on hydrology and drainage to be discussed at subsequent meetings, and to include other information discussed from tonight's meeting. Also, that there be a written agreement stating Kintetsu agrees with what is being proposed.

Michael Schenk wondered why a vote couldn't be taken tonight, incorporating the wording of staff, with corrections to be made at the following meeting.

M/S Harle, Kroot, to direct staff to prepare a resolution of approval for a lot split for PP-12 - Terry and Eugene Schenk, and Kintetsu Enterprises of America, off Cherne Lane, A/P Nos. 5-300-15, 5-300-24 and 5-300-28, with the conditions as stipulated in the discussion tonight.

Ayes: Yarish, Harle, Kroot
Noes: Sias, Julin

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

C. BUSINESS ITEM (Taken out of order).

1. AR-4 - Terry Schenk, off Cherne Lane, A/P Nos. 5-300-24 and 5-300-28, interpretation of Planning Commission's design review approval regarding the timing of the garage construction.

Commissioner Yarish did not think there was a need to proceed immediately with the building of the garage, adding it would not be a detriment to the neighborhood if the garage was not built. He therefore was in support of recommendation Number 2 of the staff report adding that the building permit will expire in one year.

Mr. Roberto noted that staff had just become aware that trees still have not been planted as was part of the conditions of design review.

Mr. Katz suggested the Commission take into consideration the recent water moratorium.

Terry Schenk asked if he was required to have covered parking. To which Mr. Roberto replied it was required as part of the design review approval.

Commissioner Kroot was in favor of recommendation Number 3 of the staff report.

Commissioner Julin was in favor of recommendation Number 3 however there are some unresolved issues relating to the design review approval such as landscaping and placement of the garage.

Commissioner Harle was in favor of recommendation Number 3, adding that the garage be built within one year.

Chairman Sias agreed with Harle, adding that the exact location of the garage should be determined and the landscaping should be triggered by the MMWD water moratorium.

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Commissioner Kroot noted that if the applicant is required to build the garage within a year it will be the rainy season.

Commissioner Yarish suggested a limit of 15 months.

M/S Yarish, Kroot, to allow the certificate of occupancy for the house to be issued providing for AR-4 - Terry Schenk, off Cherne Lane, A/P Nos. 5-300-24 and 5-300-28, with the following provisions: A. All design review conditions related to the home are complete and in place and; B. A deferred improvement agreement is signed with the Town, stating that the applicant will build the garage as approved prior to 15 months or the Town will use the agreements surety to build it and; C. Provide surety in the form of a certificate of deposit for the full cost of constructing the garage and its associated structure as part of the deferred improvement agreement; and that similar arrangements for landscaping be triggered by the moratorium by MMWD.

Discussion:

Mr. Katz asked if a bond would be acceptable from a bonding company in lieu of a certificate of deposit. Mr. Schenk suggested a letter of credit as stipulated in the staff report.

Mr. Roberto suggested rewording 3C to include the letter of credit and give staff the final decision as to which is preferred.

M/S Yarish, Kroot, to amend recommendation 3C to include the letter of credit and that the determination of which surety to be used will be made by the Planning Director.

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

D. PUBLIC HEARINGS

2. V-2271 - Stephen and Diana Wyatt, 56 Cordone Drive, A/P 5-222-23, a 2 foot south sideyard variance to construct open stairs and landings within 4 foot of the south side property line; and a height variance to construct a fence up to 10 feet in height along the south side property line.

The applicants were present.

Lisa Wight presented the staff report.

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

M/S Kroot, Julin, to approve V-2271 - Stephen and Diana Wyatt, 56 Cordone Drive, A/P 5-222-23, a 2 foot south sideyard variance to construct open stairs and landings within 4 feet of the south side property line; and a height variance to construct a fence up to 10 feet in height along the south side property line; 1. Due to special circumstances applicable to the property, specifically the exterior access to the existing deck and stairs is desired and can only be accomplished by constructing a flight of stairs located within the setback or by using the adjacent public pedestrian stairs, 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; 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 located, and the proposed fence will provide some privacy and the height is necessitated by the upslope

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of the property; and 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner, specifically that the applicants desire to provide exterior access to the recently completed landings and open deck, and the fence will provide some level of privacy in the rearyard; 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 the new deck and proposed stairs provide articulation to this dwelling and it will look different than the three neighboring structures at Nos. 52, 60 and 64 cordone Drive, which all have similar exterior elevations, and the fence design is attractive and will not appear to loom on persons using the public pedestrian stairway. This approval is based on the drawings dated August 15, 1988.

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

3. SR - Frank Howard Allen Company, 400 Redhill Avenue, A/P 6-121-15, sign review of a freestanding sign.

Mr. Dawson, the representative for Grace Sign Company was present.

Lisa Wight presented the staff report.

Mr. Dawson stated that their intent was to add this sign in addition to the signs already present and not to eliminate any signs.

Ms. Wight said she was able to make the findings based on the old sign being removed and was not sure what the special circumstances would be if the signage was increased and it would mean the applicant would need a sign variance.

Mr. Dawson said the sign proposed is very small but they want people traveling eastbound to be able to see the sign. He suggested removing the sign with the wood lettering that is attached to the building because it just identifies the name of the building, not the logo.

All the Commissioners were in favor of this application as amended.

M/S Yarish, Kroot, to approve SR-346 - Frank Howard Allen Company, 400 Redhill Avenue, A/P 6-121-15, sign review of a freestanding sign on the grounds that the sign meets all the required findings in the staff report and is contingent upon removal of a 3 square foot wooden letters, "400 Frank Howard Allen Building": which is attached to the front face of the building. This is based on the drawings dated November 15, 1988.

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

4. V-2272 - Ian A. Gray, 20 Monterey Avenue, A/P 6-013-12, a 5 foot frontyard variance and a 3 foot east sideyard variance to construct a second story bay window addition within 15 feet of the front property line and within 5 feet of the east side property line, with a 1.5 foot roof overhang; a 12.5 foot frontyard variance and a 1 foot east sideyard variance to construct a second story open deck within 1.5 feet of the front property line and 5 feet of the east side property line; and a 17.5 foot frontyard variance and a 3 foot east sideyard variance to convert a one car garage to living area and construct a two car garage within

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2.5 feet of the front property line and within 5 feet of the east side property line.

The applicant was present.

Lisa Wight presented the staff report.

Mr. Gray said the extension of the bay window will not obstruct the view of his neighbors and noted there is a similar design off of Alderney.

Commissioner Harle would support the variance but stated it was quite an irregular extension for the front of the building and did not want to see a precedent set.

Commissioner Yarish stated this was the first property on the block to extend so dramatically into the front yard and did not feel there was a need to add 27 feet of additional structure when 19 feet would suffice.

Mr. Gray said there was a steep hill in the back with a retaining wall and if he was to move the structure to the rear then he would have to completely reconstruct the retaining wall. He said the proposed garage should be large enough for his truck and he also wanted to have a work bench. Mr. Gray is trying to keep the expense down.

Commissioner Yarish thought that given the front yard intrusion, the plans need to be reworked.

Commissioner Kroot was in support of the applications, adding this lot is a little steeper than the others in the area, that the neighbors actively support the variance and he did not think it would be obtrusive.

Commissioner Julin supported the variance, stating the houses in the area are small and really can only build out towards the street and also the neighbors were in support.

Chairman Sias supported the variance but recognized this may set precedent for others in the neighborhood. He asked if the garage could be decreased the amount of the proposed work bench.

Mr. Gray said he would prefer to go with what he is proposing than make changes to the design.

M/S Kroot, Harle, to approve V-2272 - Ian Gray, 20 Monterey Avenue, A/P 6-013-12 a 5 foot frontyard variance and a 3 foot east sideyard variance to construct a second story bay window addition within 15 feet of the front property line and within 5 feet of the east side property line, with a 1.5 foot roof overhang; a 10.5 foot frontyard variance and a 1 foot east sideyard variance to construct a second story open deck within 3.5 feet of the front property line and 5 feet of the east side property line; and a 15.5 foot frontyard variance and a 3 foot east sideyard variance to convert a one car garage to living area and construct a two car garage within 4.5 feet of the front property line and within 5 feet of the east side property line on the basis

For the 2 car garage:

1. Due to the special circumstances applicable to the property, specifically the location of the house on the property and the steepness of the existing driveway and steepness of the lot in the rearyard, 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; and the granting of a variance will not constitute a grant of special privileges inconsistent with the limitations upon

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other properties in the vicinity and zone in which such property is located; and the granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner; 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 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 steep driveway will be eliminated.

For the Bay Window and Open Deck

1. Due to special circumstances applicable to the property, specifically it is very difficult to add on to the house in the rearyard and this is a small addition connected to the new construction of the garage; the bay window will not be obtrusive; the open deck is the roof of the garage and would exist under any circumstance, and 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; 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 located; and the granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and the granting of such variance, under the circumstances of the particular case the bay window is small 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 received this evening dated 3-06-89.

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

E. APPROVAL OF MINUTES - February 6, 1989

M/S Yarish, Kroot, to approve minutes of February 6, 1989 as written.

All ayes. Motion unanimously passed.

The regular meeting of the Planning Commission was adjourned at 12 a.m. to the next regular meeting on March 20, 1989.

BARBARA CHAMBERS
ADMINISTRATIVE SECRETARY/TECHNICIAN