

TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES OF AUGUST 6, 1990

The regular meeting of the Planning Commission was called to order at 8:00 p.m. by Chairman Yarish in the Council Chamber. Staff present: Lisa Wight, Planner; and Dain Anderson, Assistant Director of Planning.

A. ROLL CALL

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

B. CONSENT AGENDA

1. Approval of Minutes of the meeting of July 16, 1990.

The Commission unanimously approved the minutes of July 16, 1990, as written.

C. PUBLIC HEARINGS CONTINUED TO AUGUST 20, 1990

1. **V-9010 - Norman Vachon, 12 Fern Lane, A/P 7-015-02**, a 3'0" north sideyard variance and an 11'0" rearyard variance to construct a living addition within 5'0" of the north side property line and within 9'0" of the rear property line, with a 1'0" roof overhand, on property located within the R-3 Zoning District.

2. **V-9019 - Pat Waters and Denelle French, 76 Elm Avenue, A/P 7-053-12**, 1 4'3" north sideyard variance to construct first and second story living additions within 3'9" of the north side property line with a 1'0" roof overhand, on property located within the R-1 zoning District.

D. APPLICATION WITHDRAWN

1. **NU-64 - Richard and Maureen Hochschild, 281A Crescent Road, A/P 7-222-42**, use permit to legalize a second living unit, on property located within the R-1 Zoning District.

2. **V-9021 - Don Stevens, 7 Roble Court, A/P 5-131-21**, a 13'0" rearyard variance to construct a gabion retaining wall within 7'0" of the rear property line, on property located within the R-1 Zoning District.

E. CONTINUED PUBLIC HEARINGS

1. **V-9008 - Richard and Maureen Hochschild, 281A Crescent Road, A/P 7-222-42**, a 9'0" frontyard variance and an 11'6" rearyard variance to construct a new dwelling within 11'0" of the front property line and within 8'6" of the rear property line, with a 1'0" roof overhand, on property located within the R-1 Zoning District.

The applicants and their architect, Robert Swanson, were present.

Assistant Planning Director Anderson presented the staff report.

Mr. Hochschild stated that he has withdrawn his original proposal and has reduced the height and size of the house as suggested by some of the Planning Commissioners.

John Cowperthwaite, 87 Woodland, thought there was a potential for overdevelopment of the site, with the proposed large home in addition to the three car garage and accessory structure.

Commissioner Mihaly wondered what the accessory structure would be used for. His concern was that there were many illegal 2nd units in town and did not want this to become an enforcement issue. Mr. Hochschild stated that both he and his wife were self employed and they would use the premises for their offices.

Commissioner Mihaly asked staff what changes have been made to the new dwelling. Assistant Planning Director Anderson explained that the grade line is the same but the house will be nestled into the hillside and the height of the interior walls lowered.

Commissioner Mihaly felt that because of the extremely irregular shape of the lot he would be able to make the required findings. Also, there does not seem to be any opposition from the neighbors directly above or below. However, he was regretful of the loss of a second unit and was concerned that the accessory structure could present an enforcement problem.

Commissioner Harle echoed Commissioner Mihaly and added he felt accommodations have been made by the applicants to reduce the bulkiness. With regards to the 2nd unit being turned into an accessory structure, he always felt it was a perfect 2nd unit but would go along with the use as an accessory structure.

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Commissioner Sias did not feel the intent of the accessory structure would apply in this instance. He felt that by allowing this structure to remain and allowing the building of another dwelling on the lot would constitute over development. He did not concur with staff's recommendations of the need for the setback variances. The house could be reduced to fit within the building envelope. Therefore, he was opposed to the application.

Chairman Yarish concurred with Commissioner's Mihaly and Harle, adding that the house as proposed will not be overbearing. He thought the architect reduced the visual impact by designing the house into the hillside. As an aside, he also felt the Town should look into the ordinance regarding accessory structures.

M/S Harle, Mihaly, to approve **V-9008 - Richard and Maureen Hochschild, 281A Crescent Road, A/P 7-222-42**, a 9'0" frontyard variance and an 11'6" rear yard variance to construct a new dwelling within 11'0" of the front property line and within 8'6" of the rear property line, with a 1'0" roof overhand, on property located within the R-1 Zoning District on the grounds: 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 applicants' property is approximately 13,230 square feet in size, which reflects a lot size larger than the established minimum lot size of 7,500 square feet within the R-1 Zoning District, and which also reflects a relatively large lot size when considered in the context of the surrounding neighborhood. The shape of the applicants' property is irregular, and reflects a relatively unique shape when considered in the context of the surrounding neighborhood, which exhibits lots which are predominantly rectangular in shape. The topography, location, and surroundings of the applicants' property do not reflect a unique condition in terms of the surrounding neighborhood. The irregular shape of the applicants' property can be considered a constraint on the development of the property and therefore, approval of the variance would not represent a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. b) The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner; specifically: The property rights implied by the San Anselmo Municipal Code for the applicant's property is the development of a single family detached residential unit. The applicant's proposal to convert the existing single family detached residential unit to an accessory structure alters the property's existing status to essentially that of underdeveloped, implying that the applicants' property rights have not been enjoyed. Therefore, inconsideration of the fact that the applicants' property rights have not been enjoyed to the extent provided for by the provisions of the R-1 Zoning District, and in consideration of the property's unique physical attributes, the granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner. c) 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 previously revised siting of the proposed new single family detached residential unit relative to the project site's boundaries, and in consideration of the recently revised height of the structure, will not represent a significant visual impact to those properties located adjacent to, and downslope of, the applicant's property. While the proposed siting and height of the new single family detached residential unit will reduce to some degree the privacy enjoyed by adjacent, downslope properties, staff does not consider the reduction significant. Further, staff does not consider the visual influence of the proposed residential unit to be unreasonable or significant in light of other existing development within the neighborhood. Therefore, 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 approval is also conditioned on the fact that: 1) there be a conversion of the existing single family detached residential unit to an accessory structure for use as a study/studio, thereby effectively withdrawing the use permit application for the designation of that unit as a residential second unit; and 2) that a further reduction in the overall height of the proposed single family detached residential unit from the initial proposal of approximately thirty-seven to a current proposal of approximately 27 feet. This approval is based on drawings reflecting the cottage plan being converted to an accessory structure dated 7/25/90.

Ayes: Mihaly, Harle, Yarish  
Noes: Sias

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

2. **V-9015 - Paul and Carol Kreider, 40 Cordone Drive, A/P 5-222-06**, 1) a 2'6" north sideyard variance to construct a first story kitchen addition within 5'6" of the north side

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property line; 2) a 3'0" south sideyard variance to construct a second story living addition within 5'0" of the south side property line, with an 18" roof overhand; 3) a 9'0" front yard and a 4'")" south side yard to construct a peaked roof over the garage within 11'0" of the front property line and within 4'0" of the north side property line; and 4) a parking variance to allow the existing substandard parking to remain on property located within the R-1 zoning District.

Paul Kreider and his Architect, Dan Thomas, were present.

Lisa Wight presented the staff report.

Mr. Kreider stated that parking seems to be the real issue because of the wine business in the garage. He said he is in the process of acquiring larger premises for the wine business but in the meantime would be willing to park his 2nd vehicle at his place of business on Greenfield Avenue.

Dan Thomas stated that his client's house only has two bedrooms and circulation becomes an issue if the bedroom is moved. He noted that all backyards in the neighborhood function as an open space. If the backyard is utilized for the addition, that open space feeling will be eliminated. In addition, all homes in the area have two stories. The soils and structural engineers feel the addition proposed is the most logical and all the homes in the neighborhood have 5 foot side yard setbacks.

Commissioner Harle supported the variance, noting that the addition seemed unobtrusive. He did share staff's concern about the substandard parking due to the home business but since the business will be moving, the substandard parking is only temporary. He suggested a review in six months to evaluate the parking.

Commissioner Sias supported the second story variance if it was not possible to step back the addition. Also, although parking is currently a concern, the problem will be resolved shortly by having the business removed from the garage. He suggested that the condition of approval be that the removal of the business must take place within six months.

Chairman Yarish agreed that shifting the house would be difficult. He did not think the 3 foot side yard would have a negative impact on the neighbors. He felt it would be more of a detriment if the house was set back. With regard to the parking issue, he felt there should be a six month review by the Planning Commission.

Dan Thomas suggested that the Planning Commission start the six months from the time of issuance of the building permit because there was a possibility that work would not commence until next year.

Assistant Planning Director stressed that parking was really an important issue that should be further discussed because the home occupation which is taking away from on-site parking.

Commissioner Mihaly stated that just because other homes in the vicinity have second stories is not necessarily a reason to grant approval. Also cost factors are not necessarily setback issues and cannot be viewed as a planning issue. He is willing to reluctantly approve but wondered if the Commission should not take a closer look at the reasons variances are granted.

Commissioner Sias stated that the psychology is that the property owners should live within the zoning ordinance laws and that a variance should be granted only if it is absolutely necessary and the other findings cannot be met.

Commissioner Yarish said he was able to make some of the findings but was unable to make the findings for special circumstances.

Commissioner Sias said he was unable to make the three required findings and therefore felt the variance request should be denied.

Assistant Planning Director Anderson noted that to approve a variance, all three findings have to be made. Denial of an application can be based on only one finding that cannot be made.

M/S Mihaly, Harle, to approve **V-9015 - Paul and Carol Kreider, 40 Cordone Drive, A/P 5-222-06**, 1) a 2'6" north sideyard variance to construct a first story kitchen addition within 5'6" of the north side property line; 2) a 3'0" south sideyard variance to construct a second story living addition within 5'0" of the south side property line, with an 18" roof overhand; 3) a 9'0" front yard and a 4'")" south side yard to construct a peaked roof over the garage within 11'0" of the front property line and within 4'0" of the north side property line; and 4) a parking variance to allow the existing substandard parking to remain on property located within the R-1 zoning District 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

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under an identical zoning classification, and the granting of a variance will not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which such property is situated; 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.

First Story Kitchen Addition:

This small kitchen addition, is considered a "notch filler" and is reasonable extension between the kitchen and dining room, and should not be noticeable to surrounding neighbors, while providing the owners with extra space in their kitchen.

Garage Roof:

The construction of a peak roof will be in keeping with the neighboring houses; it will aesthetically tie in with the design of the house and is necessitated by the location of the garage. Neighboring properties should not be adversely impacted.

Second story Living Addition:

The second story doesn't loom or affect the light of the neighbors and other houses in the near vicinity have second stories. A different addition within the setbacks could create a detriment.

Approval is subject to the condition that the garage be accessible and usable for parking one vehicle prior to building permit issuance for the second story living addition. This is based on drawings dated received April 6, 1990.

Ayes: Harle, Mihaly, Yarish  
Noes: Sias

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

F. PUBLIC HEARINGS

1. AR-9005 - Mark and Karl Toomey, 187 Oak Springs Drive, A/P 5-293-02, 1) a 20' 0" rearyard variance and 8'0" north and south side yard variances to construct a retaining wall up to 2'6" in height within 8' of the rear, north side, and south side property lines; and 2) a 17' 0" rearyard variance and 5'0" north and south side yard variances to construct a retaining wall up to 4'0" in height within 3'0" of the rear, north side, and south side property liens, on property located within the R-1-C Zoning District.

The applicants were present.

The Planning Commission were able to make the necessary findings.

M/S Harle, Sias, to approve AR-9005 - Mark and Karl Toomey, 187 Oak Springs Drive, A/P 5-293-02, 1) a 20' 0" rearyard variance and 8'0" north and south side yard variances to construct a retaining wall up to 2'6" in height within 8' of the rear, north side, and south side property lines; and 2) a 17' 0" rearyard variance and 5'0" north and south side yard variances to construct a retaining wall up to 4'0" in height within 3'0" of the rear, north side, and south side property liens, on property located within the R-1-C Zoning District 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 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, the special circumstances are that the abrupt drop off of the rearyard which is not usable at present. The proposed additions are in the rearyard, which will reduce the current level yard between the house and top of the slope to 14'. The retaining walls will create a larger level area, which is consistent with other properties in the vicinity. 2) The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner, specifically that this area in the past has been full of blackberry bushes which have been an eyesore and unsafe for children. The retaining walls will provide a larger usable yard and provide planters for vegetation. 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 retaining walls should stabilize the land and provide protection to the downhill neighbor at No. 147 Oak

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Springs Drive. The walls should not have an adverse visual impact to the neighboring properties due to their low height and the existing vegetation.

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

2. V-9018 - Roland Niemcewicz, 120 Redwood Road, A/P 7-081-49, 1) a 20'0" frontyard variance and a 2'0" north sideyard variance to construct a parking deck within 0' of the front property line and within 6'0" of the north side property line (a separate encroachment permit will be required); and 2) variance for a second driveway, on property located within the R-1 Zoning District.

The applicant was present.

Lisa Wight presented the staff report.

Commissioner Mihaly wondered if there was a vacant lot adjacent to the subject property. Mrs. Niemcewicz thought the property was vacant and considered not buildable.

Mr. Niemcewicz did not think staff's recommendation that the parking deck be reduced by 2 feet could be accommodated because the existing foliage would have to be removed. If the hedge is removed it would reduce the privacy from on coming car headlights from the road. He also felt it would be a hazard to remove the foliage because it acts as a barrier for oncoming traffic. Upon further discussion he stated that he is proposing an 18' setback, not 20'. Because the drawings were incomplete and the hedge in question was not on the drawings the Planning Commission felt this application should be continued.

Jay Stein, 119 Redwood, stated that he felt his neighbors proposal would provide better parking, improve the neighborhood and improve the curve of the road. He also did not think it would be a good idea to remove the hedge for the reasons stated by the owner.

Commissioner Hihaly asked if staff would be able to determine if the adjacent lot was buildable because it would help him in his decision process. Staff stated that it would be a major undertaking

M/S Sias, Harle, to continue V-9018 - Roland Niemcewicz, 120 Redwood Road, A/P 7-081-49, 1) a 20'0" frontyard variance and a 2'0" north sideyard variance to construct a parking deck within 0' of the front property line and within 6'0" of the north side property line (a separate encroachment permit will be required); and 2) variance for a second driveway, on property located within the R-1 Zoning District, to the meeting of August 20, 1990 to allow the applicant time to submit drawings that clearly reflect what is proposed.

All ayes. Motion unanimously passed.

3. V-9020 - Paul Dal Porto, 40 Floribel Avenue, A/P 7-081-58, 1) a 4'6" north sideyard variance to construct a second story living addition within 3'6" of the north side property line; 2) a 1' 6" north sideyard variance to construct a third story living addition within 6'6" of the north side property line, with a 1'0" roof overhand; and 3) a variance to construct a third story, on property located within the R-1 Zoning District.

Fran Halperin, Architect for the applicant, was present.

Commissioner Mihaly stated that Ms. Halperin was also his Architect but felt that he could be impartial in evaluating this application.

Lisa Wight presented the staff report.

Ms. Halperin stated that it would be quite costly to expand towards the rear and would use up much of the backyard open space. She felt the application proposed is the cleanest, simplest addition and least costly. Also, if the addition was to the rear, the amount of added space would not be as great. She stated that the third story would not be seen by pedestrians and would be no higher at the highest point than if the second story had a peaked roof.

Commissioner Mihaly felt the house was too tall. He stated that this house was obviously a simple house and he agrees there should be affordable housing. To put additional demands on the architect would perhaps make the house unaffordable. He did not think that the addition would block the light for the neighbors but the addition would loom over Elm Avenue. He felt that the house could be redesigned to comply with the setbacks but felt that the present addition is dictated by economics. He would be inclined to approve the application if the variance was minimal however the kitchen extension towards the other houses is a bit of a problem.

Commissioner Harle felt that it would have a negative affect on the neighborhood because of the size of the addition.

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Commissioner Sias felt it was difficult to make the findings because the house would loom and would be a negative impact on the neighborhood. Also, there are other places on the lot to expand without getting a variance.

Chairman Yarish noted that the protrusions on the north side and the third story will negatively affect the neighbors. The sacrifice was made to accommodate the owners. He felt the design was nice but would not be able to make the required findings.

Ms. Halperin wanted to know why the Commission could not make the findings when no one in the neighborhood came in to oppose the project. She felt she would like to continue the application to allow her time to talk with the owners to see if they want to redesign the project. She added that in the future it would be helpful if applicants had an idea of whether or not the project could be approved prior to the meeting. Her clients have waited six months to be heard by the Planning Commission.

M/S Mihaly, Harle, to continue V-9020 - Paul Dal Porto, 40 Floribel Avenue, A/P 7-081-58, 1) a 4'6" north sideyard variance to construct a second story living addition within 3'6" of the north side property line; 2) a 1' 6" north sideyard variance to construct a third story living addition within 6'6" of the north side property line, with a 1'0" roof overhand; and 3) a variance to construct a third story, on property located within the R-1 Zoning District to the meeting of September 17, 1990.

Motion unanimously passed.

G. GENERAL DISCUSSION

Mr. Anderson noted that Commissioner Kroot's appointment will be up in August and he is interested in seeking reappointment to the Commission.

Mr. Anderson stated that the size of accessory structures will be discussed as part of the zoning ordinance revision effort.

Mr. Anderson asked if the Planning Commission would be agreeable to have a special meeting on September 10, 1990 in lieu of the holiday on September 3, 1990. The consensus of the Commission was to schedule a special meeting on September 3, 1990.

Chairman Yarish noted that he had a conversation with Town Attorney Hadden Roth. Roth wanted to convey to the Commission that he is available to discuss any land use issues with the Commission.

H. REPORT ON UPCOMING APPEALS TO TOWN COUNCIL

I. ADJOURNMENT

The regular Planning Commission meeting was adjourned at 11:15 p.m. to the next regular meeting on August 20, 1990.

BARBARA CHAMBERS  
ADMINISTRATIVE SECRETARY