

TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES JUNE 18, 1990

The regular meeting of the Planning Commission was convened at 8:00 p.m. on June 18, 1990 in the Council Chamber by Chairman Yarish. Staff present: Dain Anderson, Assistant Director of Planning; and Lisa Wight, Planner.

A. ROLL CALL

Commissioners present: Harle, Kroot, Sias, Julin, Yarish

Commissioners absent: Hayes

B. PUBLIC HEARINGS

1. NU-64 /V-9008 - Richard and Maureen Hochschild, 281A Crescent Road, A/P 7-222-42, 1) a use permit to legalize a second living unit located on property within the R-1 zoning district; and 2) a 9' frontyard variance and a 15' rear yard variance to construct a new dwelling within 11' of the front property line and within 5' of the rear property line, with a 1' roof overhang; and a third story variance for an attic in the new dwelling.

The applicants, and their Architect, Bob Swanson, were present.

Dain Anderson presented the staff report.

Commissioner Harle stated that he was not familiar with the State Law requirements that a second unit not exceed 640 square feet and wondered if the Town could make a provision to exceed that? Dain Anderson stated that the SAMC has not made allowances for it at this time.

Maureen Hochschild said that they did not intend to ask for any variances to build their new house and would adjust as necessary to build within the setbacks. She said they would also eliminate the crawl space which would then eliminate the need for a third story variance. She further stated that they would have added to the existing house but are unable to because of the steepness and shape of their lot. She did not feel the down slope neighbors would be impacted by the construction of the new house and she felt she would be deprived of her property rights if not permitted to build. Their property is at least twice the size of others of the minimum lot and they would not exceed 40% of lot coverage. Therefore, they are within the legal limits. With regard to the existing house exceeding the maximum for a second unit, they would be willing to decrease the house to the required limit.

Commissioner Julin asked if there were other parcels in their neighborhood that have two houses on the lot. Mr. Hochschild believed there were two other parcels that he was aware of.

Jim Copperswithe, 141 Oak Avenue, inquired about the square footage of the proposed new dwelling and of the deck on the existing house. He also asked if the slope policy would apply to this house. He stated that the proposed house seemed to be quite large and would loom over the down slope neighbors and that the owners are trying to get an R-2 zone usage in an R-1 zone.

Resident, 76 Ross Court, was concerned about the eucalyptus trees sliding down the hill because of disturbance of the soil. She also wondered if a soils report would be required.

Bob Swanson stated that a soils report was prepared when the garage was built.

Mr. Hochschild added that he would not be willing to live under any trees that were unstable.

Peter Copperswithe, 87 Woodland, wondered if parking would be adequate. He was also concerned about traffic during construction and water runoff. He also stated that he did not receive a notice for the hearing.

Richard Hochschild stated that water from the roof would be taken by drain to the culvert

Steve Hershey, 78 Woodland, indicated there was a spring on the hill and with the addition of a new house, the watershed will change.

David Fah, 287 Crescent, stated that the existing house used to be a stable for his house years ago. The driveway is very narrow and they access their home by an easement. He said there are two other houses with second units but one is on 9/10's of an acre and the other on 1 acre.

Michael Worstein, 76 Woodland, stated he did not receive a notice.

Commissioner Sias said he had trouble with the application because he felt it would be over development of the site and out of scale for the neighborhood. He felt the applicants have already had a chance to adequately develop from the past applications and would therefore like additional information explaining why expansion of the existing dwelling would not work. He requested that the plans also show on-site parking

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Commissioner Harle stated the lot was irregular and felt the proposed spot was the appropriate location to build a house. The existing house is very small and even if it could be expanded, the addition would loom over houses on Cedar. Although he was in favor of the new dwelling he did not think it was a very sensitive design to have tall gables and attics on this site. He felt the down hill section of the house could be cut down and hug the hill more but felt he could approve in principal. He noted that the existing dwelling is perfect for a second unit.

Commissioner Julin felt that this application would constitute over development of the site and therefore would be a detriment to the neighborhood.

Commissioner Kroot thought there might be a possibility of a house along the property lines . He noted that because of the front and rearyard configuration, he could approve one of the variances but would like to see the existing house expanded.

Chairman Yarish felt the addition of another dwelling would constitute overdevelopment and would like to see the existing house expanded. With regard to the second unit, he stated the size was not the problem, but he would not be able to approve two houses on one site as proposed because it would be too imposing. He suggested that the applicants consider expanding the original house or scale down the proposal for the new dwelling.

Commissioner Harle said that the applicants are working with the present conditions and could not be asked to tear down the existing house and start over.

Maureen Hochschild said the existing house could never be added on to for various reasons. Even if it could, it would loom and be bulky. She said if the Commission wanted them to tear down the existing house, they will. All they want is to have a normal size house to adequately accommodate a family of five.

Richard Hochschild said they would like to continue this discussion to have time to think about the Commission's comments.

M/S Kroot, Sias, to continue NU-64 /V-9008 - Richard and Maureen Hochschild, 281A Crescent Road, A/P 7-222-42, 1) a use permit to legalize a second living unit located on property within the R-1 zoning district; and 2) a 9' frontyard variance and a 15' rearyard variance to construct a new dwelling within 11' of the front property line and within 5' of the rear property line, with a 1' roof overhang; and a third story variance for an attic in the new dwelling on the basis that the applicants review the project and come back to the Planning Commission with: 1) a less prominent house (less variances and reduction in height); or 2) redesign on the present home; or 3) plans for enlargement of the present home. This will be continued until the meeting of 7/16/90.

All ayes. Motion unanimously passed

2. V-9008 - Dan Moriarty, 16 Bolinas Avenue, A/P 7-302-20, appeal of Planning Director's decision regarding 8' frontyard, 8' west sideyard, and 8' east sideyard variances to permit arbors to remain within 12' of the front property line, 0' of the west side property line, and 0' of the east side property line - AFTER THE FACT.

The applicant was present.

Mr. Anderson presented the staff report.

Commissioner Harle mentioned that the Town right-of-way was unusually large on this street and the setback looked as if it was 40'.

Mr. Moriarty stated that in 1985 they moved into the house and became friends with their neighbors, the Legnittos at 20 Bolinas. He stated that their problems with their neighbors began when the Legnittos started a day care center. The noise of the children's toys in the yard created a disturbance. They were not able to resolve the problem. They have even tried to seek outside help from various agencies to resolve their differences, but to no avail. Mr. Moriarty felt that because of the bad feelings between him and his neighbors, the Legnittos called the Town to state that the trellis had been built without permits. He could not understand why the trellis was not a problem for three-and-a-half years and now has suddenly become a problem. He remembered that at the time of construction of the trellis, the Legnittos stated they liked the trellis, in fact suggested they paint it white, which they did. Mr. Moriarty presented a letter of support from a neighbor at 94 Shady Lane, Ross, which stated the trellis adds aesthetic value to the neighborhood.

Bob Legnittos, 20 Bolinas, agreed that a considerable time had elapsed since the trellis was constructed but he was not aware in the beginning that permits were required until last year, at which time he contacted the Building Department. As far as the noise caused by the children during the day, he planted trees to help alleviate the noise. He presented pictures of the trellis from his house.

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Commissioner Harle said the Planning Commission could not adjudicate a quarrel, but was unable to make the findings on the basis of esthetic value and the detriment to the neighbors.

Commissioner Julin thought it was unfortunate that there is a dispute between the neighbors. She was not able to make the necessary findings to approve the variance for the trellis. She found it disruptive to the existing pattern of development on the block.

Commissioner Kroot thought the arbor was very attractive but felt there was nothing unique about the property that could allow him to make the necessary findings.

Commissioner Sias said he was truly sorry but he could not make the findings to approve the trellis. He hoped the neighbors could work together and it was unfortunate there was such turmoil between each other.

Chairman Yarish said the problem seems to be the noise of the children and the visual impact of the trellis. He hoped the two families could work together to resolve the issues. He suggested that perhaps vegetation could be planted in place of the trellis to screen. He concurred with his colleagues that the required findings for the variance could not be met.

M/S Harle, Julin, to deny V-9008 - Dan Moriarty, 16 Bolinas Avenue, A/P 7-302-20, appeal of Planning director's decision regarding 8' frontyard, 8' west sideyard, and 8' east sideyard variances to permit arbors to remain within 12' of the front property line, 0' of the west side property line, and 0' of the east side property line on the basis that the trellis is not a required structure, only add aesthetic value and in view of the complaint from the neighbor at 20 Bolinas, the finding about "a detriment to the health and safety of persons residing or working in the neighborhood" cannot be met.

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

3. NU-65 - Gene and Barbara Marksbury, 55 Sais Avenue, A/P 6-074-43, use permit for a new second living unit located on property within the R-1 zoning district.

The applicants were present.

Lisa Wight presented the staff report noting that staff has received a letter from the owner at 51 Sais opposing the second unit.

Donavan Waters, resident at 55 Sais, said he and the owner's daughter will continue to live on the premises until the property is sold. He noted that there used to be an interior stairway that has since been closed off. As far as parking is concerned, they are able to accommodate four vehicles off street.

Commissioner Julin wanted to know how the Town could enforce the policy of having the owner live on the property. Ms. Wight stated that the owner will be required to live in the main unit within one year, or if the property is sold, the buyer will be required to obtain a use permit as they are not transferrable. She further stated that it would be difficult to enforce.

Rich Marchetti, 26 Sais, wanted clarification on the Town's policy of second units. He considered this property a duplex, and was not interested in having a duplex in his neighborhood.

Kent Reno, 125 Calumet, said the property in question is opposite his backyard. The street is narrow and any additional traffic would create a traffic problem and parking problem. He did not think the intent of the owner is to move back into the house and he did not think the spirit of the second unit fits this property with the current owners. His feelings were that the house would be used strictly as a rental. He canvassed six neighbors, three of whom were not noticed, and all six were against the second unit. Those people not noticed are: Melissa Weaver, 50 Sais; Fred Mosher, 61 Sais; and Jim Harold, not sure of the address.

Fred Mosher, 61 Sais, did not receive a notice and only heard about the hearing from neighbors. He was concerned that the property would become a rental and constantly have a turn over of tenants.

Catherine Farnkoph Calumet, was concerned about having a rental unit in her quiet neighborhood. She said that other neighbors who could not be present shared her sentiments.

Letha Marchetti, 29 Sais, wanted staff to identify the area of the Carrigan Tract. She felt there were already more than 13 second units in her neighborhood.

Commissioner Kroot thought the dwelling was a good potential second unit. The only cloud was the fact it was for sale but the buyers will have to apply for the use again therefore he supported the proposal.

Commissioner Sias supported the use proposal but would like to see staff renote the agenda since there were several neighbors that did not get noticed. The Town Code specifies 13 second units in the Carrigan Tract and this application falls within the guidelines. He was curious however, what would

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happen if another individual applies during the time the house is for sale. Would the buyer be guaranteed the second unit or could the person on the waiting list be a potential candidate?

Ms. Wight said, there is no guarantee that the buyer will get the use, however historically the use is carried over to the buyer.

Commissioner Harle supported the second unit. He said that it is required by law that the Town has a certain amount of second units and it is unfortunate that people are unclear about this. He said that the house will still remain R-1 and will not be considered a duplex. With regard to change of ownership, it has usually been a matter of course that the new owner gets the use automatically. He felt it should go to the next person on the waiting list.

Ms. Wight explained that it would be difficult in not extending the existing use to the new owner because the unit would have to be abated.

Commissioner Julin was able to make all the findings for the use permit. She also concurred with her colleagues that this use should not be automatically given to the new owner if there are people on a waiting list.

Chairman Yarish said the use would not physically change the character of the neighborhood and was in support of the application.

M/S Julin, Harle, to approve NU-65 - Gene and Barbara Marksbury, 55 Sais Avenue, A/P 6-074-43, use permit for a new second living unit located on property within the R-1 zoning district on the basis:

1. the second living unit falls within the maximum number of second residential units authorized by resolution of the Council for the single family residential use area in which the unit is located;
2. is located on an Assessor's parcel on which the owner of record maintains his principal residence;
3. Does not encroach upon required setbacks, or cover land in excess of 40 percent, or necessitate a parking variance;
4. meets all applicable Codes in effect at the time of the establishment of the unit;
5. Will be made subject to a rent guarantee contract between the applicant and the Town;
6. Does not cause excessive noise, traffic, parking, or overloading of public facilities;
7. The granting of the use permit, under the circumstances of the particular case, will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental to injurious to property and improvements in the neighborhood or the general welfare of the Town; and
8. The granting of the use permit is necessary for the preservation and enjoyment of substantial property rights of the petitioner.

Ayes: Kroot, Harle, Julin, Yarish

Noes: Sias

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

4. V-9009 - Walter Kopp and Anna Araguren Kopp, 19 Fern Lane, A/P 5-194-33, a third story variance to construct a first story storage area, and second and third story living additions within a 1' roof overhang on a property located within the R-1 zoning district.

The applicant was present.

Dain Anderson presented the staff report and noted that staff has received a letter of opposition from Elsa and Tommaso Latini at 22 Fern Lane.

Mr. Kopp presented several signed petitions of support from his surrounding neighbors and was surprised about the opposition from his neighbors at 22 Fern. He stated that they would be more than happy to plant large trees between the two properties for screening. He added that he never had any intention to use the basement for anything other than for storage.

Norman Vichon, 12 Fern Lane, was in support of his neighbors proposal.

Commissioner Kroot really liked the current design of the present dwelling because it has so much charm but would support the addition.

Commissioners' Harle, Julin and Sias supported the application.

Chairman Yarish approved of the variance requests adding that the roof work for the addition is in keeping with the existing building.

M/S Harle, Kroot, to approve V-9009 - Walter Kopp and Anna Araguren Kopp, 19 Fern Lane, A/P 5-194-33, a third story variance to construct a first story storage area, and second and third story living additions within a 1' roof overhang on a 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 under an identical zoning classification, and the granting of the variance will not constitute a grant of special privileges

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inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated, specifically that the basement space which is virtually available whether or not used; and 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner, specifically making available basement storage space; 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. The approval is based on drawings dated 2/27/90 and conditioned upon the fact that the landscaping plan is mutually acceptable by the neighbors at 22 Fern Lane.

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

5. U-9008 - Patti Marsh Productions, Inc. 118 Greenfield Avenue, A/P 6-171-03, use permit for a warehouse use on property located within the C-3 zoning district.

The applicant was present.

Lisa Wight presented the staff report.

All Commissioners were in support of the application.

M/S Kroot, Julin, to approve U-9008 - Patti Marsh Productions, Inc. 118 Greenfield Avenue, A/P 6-171-03, use permit for a warehouse use on property located within the C-3 zoning district on the grounds that: 1. The granting of the use permit will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental to injurious to property and improvements in the neighborhood or the general welfare of the Town for the reasons that traffic and parking generation will be minimal since customers will not purchase products at this building and there is available on-site and on-street parking in the area for employees and delivery vehicles; and the use will be limited to the interior of the building so there should be no excessive noise or odors. The applicant should be directed to utilize both the rear parking lot and the on-street parking in front of their store in order to have on-street parking available for other businesses in the area; and 2. The granting of the use permit is necessary for the preservation and enjoyment of substantial property rights of the petitioner for the reasons that the property has a land use designation of General Commercial and such a use is permitted in this neighborhood conditional upon it having no adverse impact on the neighborhood.

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

6. Zoning Ordinance Revision - Comprehensive Review, revisions to the sign review, use permit, variance, and design review sections of the Ordinance.

Dain Anderson presented the staff report.

There was a discussion by the Commission as to why there was a need for this ordinance.

Chairman Yarish felt the one year restriction would limit some innocent people and even though there would be an escape clause, it would mean a variance to hear a variance.

Commissioner Sias stated that if an applicant decided to modify their plan within the year they would be penalized for changing their mind. He questioned the need for the investment of time, money and energy for this proposal, both on the part of staff, the Commission and the applicant. He did not think this would be good for the community.

Commissioner Julin said she was a principal participant in preparing the information for the ordinance and she felt she thoroughly analyzed the issues. She has discussed this with both the Director of Public Works and Planning and the Town Attorney. She sees this ordinance as an opportunity for the applicant to thoroughly think out their plans and for the Town to receive complete projects, thereby knowing the overall impact of the entire project. She did not see this as a hardship on the homeowners, rather that the residents should be sensitive to good planning and that this ordinance would be a win-win situation, both for the applicant and for the Town.

Commissioner Kroot was worried that this would create another layer of bureaucracy for the homeowner. Many times his clients start out with a particular project and for various reasons, the project can change. He therefore was against this ordinance.

Commissioner Harle did not think applicants should be penalized for something that was out of their control.

M/S Kroot, Harle, not to recommend adoption of: (1) A resolution of the San Anselmo Planning Commission to the Town Council adopting a policy of comprehensive review in the processing of land-use applications (refer to Attachment 1 in the staff report for the meeting of June 18, 1990); and

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not to recommend adoption of: (2) An Ordinance amending San Anselmo Municipal Code Chapter 7 of Title 9 relating to signs; Chapter 3 of Title 10 relating to zoning; and Chapter 4 of Title 10 relating to design review (refer to Attachment 2 in the staff report for the meeting of June 18, 1990) based on the arguments of the Planning Commissioners.

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

Motion carried.

7. Gary and Fani Hansen, 27 Indian Rock Road, A/P 177-250-21, appeal of Planning Director's decision regarding change in material used to construct a driveway retaining wall - WITHDRAWN.

C. APPROVAL OF MINUTES - MAY 7, 1990 AND JUNE 4, 1990

M/S Harle, Julin, to approve minutes of May 7, 1990 with the following amendments: page one, #2, change "sidearm" to "sideyard"; page 2, #3, change "La Manchu" to "La Mancha".

Ayes: Kroot, Sias, Harle, Julin, Yarish

M/S Harle, Sias, to approve minutes of June 4, 1990 with the following amendments: page 2, paragraph 9, change "bishops" to "trees"; page 3, add sentence under paragraph 11 as follows: "Commissioner Harle liked the suggested color and detested the existing colors on the building". Page 5, paragraph 2, add "...violation of the slope policy..."; paragraph 9, change "...has always..." to "...prefers..." and "...and still does." to "...because the impact on the immediate neighbors will be less severe than that of "E"."

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

D. DISCUSSION

Commissioner's Kroot and Sias were strongly in favor of staff including a consent agenda for those items that are relatively simple and not controversial.

Staff will revise the agenda to include the words "San Anselmo Public Notice" which will alert residents that a public meeting will be held in their neighborhood.

E. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

F. ADJOURNMENT

The regular meeting of the Planning Commission was adjourned at 12:00 a.m. to the special zoning meeting of June 25, 1990.

BARBARA CHAMBERS
ADMINISTRATIVE SECRETARY