

TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES OF SEPTEMBER 16, 1991

The regular meeting of the San Anselmo Planning Commission was convened at 8:00 p.m. by Chair Julin in the Council Chamber with all Commissioner's present. Staff present: Planning Director Ann Chaney, Planner Lisa Wight, and Consultant Planner Delvin Washington.

**B. CONSENT AGENDA**

1. Minutes - August 19, 1991
2. **V-9023, Peggy Hosmer, 22 Magnolia**, A/P 7-212-34, a 5' west sideyard variance to construct a column and beam structure within 0' of the west side property line on property located within the P zoning district.

M/S Kroot/Yarish, to approve consent agenda.

Ayes: Hayes, Harle, Yarish, Mihaly, Kroot, Julin

Abstain: Sias

Motion carried.

**C. CONTINUED PUBLIC HEARING TO THE MEETING OF SEPTEMBER 23, 1991**

1. **V-9131 Ronald and Lynn Hinck, 45 Suffield**, A/P 5-121-11, an 8' front yard variance to construct a second story addition within 12' of the front property line, on property located within the R-1 zoning district.

**D. PUBLIC HEARINGS**

1. **DR-9108 - William Whistler, 45 Tomahawk Drive**, design review to construct a fence within the private open space of the property located within the R-1H zoning district.

The applicant was present.

Planner Wight presented the staff report.

Mr. Whistler stated that he and the other homeowners of the Quarry Mountain subdivision are aware that the subdivision landscaping is in poor condition and that many of the trees have died. He said that the winds are very strong at times and have blown several trees over. He proposes to build a fence that will keep deer out and also plant trees that will be native and appropriate for the hillside to shield the fence as well as, in time, his house. He is requesting that a portion of the fence be constructed on private open space because it was the most logical place due to the fact that it would be less obtrusive and less visible because that is the area that drops below the fault line. He is proposing to plant approximately 115 to 20 trees if the fence is approved which will fulfill the original intent of the Planning Commission with the developer. He stated that he did not feel he wanted to plant new trees if he was not granted approval of the fence because the deer would just eat the trees and the wind would probably destroy them without the fence as a shield.

Jonathan Braun, 479 Scenic, stated that the consensus of the Open Space Committee is that a fence should be prohibited on the private open space because the intent of the original agreement was not to allow fencing as it would not be visually acceptable. He stated that fencing of that area would create a patchwork affect and would in essence reduce the open space area.

Cathy Sanders, 310 Redwood Road, echoed the comments of Mr. Braun and added that she did not think a 5' fence would accomplish the intent of the applicant which was to keep deer out.

Commissioner Kroot stated that the C C & R allows for fencing therefore he has no objection. He also stated that the type of fence proposed is the most unobtrusive. A fence with fruit trees planted would be beneficial to the neighborhood and will protect the vegetation from the deer.

Commissioner Hayes could not support the fence because he felt it was against the intent of the original approval of the subdivision. The original intent was to create as much of an open feeling as possible and a fence would tend to close it in. He was also concerned about the fence that was constructed on the neighboring property which was approved administratively.

Commissioner Yarish stated that the concept of the original approval was to protect the open space. He was not convinced that moving the fence 20' into the private open space would create a lessor visibility. He was concerned that staff investigate what can be done to protect the current landscaping and who is responsible for the replacement of the dead landscaping.

Commissioner Harle stated that the CC&R's specifically allow the placement of fences in the private open space and the only request should be for design review of the type of fence. He felt he could approve the type of fence proposed and had no objection to it intruding 20' into the open space if it would be less visible with the understanding that the space still not be used for anything except open space. He would also like to see the landscaping reinstated.

Commissioner Mihaly stated that the CC&R state that an applicant has the right to apply for design review for the fence however he could not support the proposal on private open space. He would like to see staff work with the property owners on a landscaping plan for the subdivision which may, or may not, include fencing. Quarry Mountain is a relatively new development and should be monitored closely.

Commissioner Sias concurred with Commissioner Mihaly.

Chair Julin felt that the idea of a dialogue with the homeowners would be a good idea. She stated that she concurred with staff's recommendation.

Commissioner Hayes added that he would like to see staff investigate who is responsible for maintaining the private open space area.

Mr. Whistler stated that as a collective group, the homeowners want to work with the Town to achieve the same goal.

M/S Mihaly, Sias, to deny DR-9108 - William Whistler, 45 Tomahawk Drive, design review to construct a fence within the private open space of the property located within the R-1H zoning district. The fence will adversely affect the view shed in spirit. The applicant has not demonstrated the need for the fence to be in the open space easement.

Ayes: Hayes, Julin, Sias, Mihaly

Noes: Yarish, Kroot, Harle

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

As an aside, Commissioner Mihaly requested that staff look into the matter of 1) where the responsibility lies for the open space landscaping, 2) landscaping options for the Town; and 3) solutions for a new landscaping plan that might include fencing and report back to the Commission at a subsequent meeting.

## **2. Amendment to the Zoning Ordinance Text to Conditionally Permit Retail Uses for Non-Profit Organizations within the R-1 (Single Family Residential) Districts**

Director Chaney presented an overview of this proposal. She stated that staff is recommending that the Planning Commission recommend approval to the Town Council.

Commissioner Sias indicated that he would like the Town Attorney to review the wording for how restrictive it would be. He wondered if the word "school" could be substituted for "organization".

Commissioner Harle stated that he would prefer a lot line adjustment rather than a General Plan amendment.

Commissioner Mihaly did not think there would be a problem substituting "school" for "organization"

Jim McDonald, Architect, recognizing the limited time period to speak, asked that a few representatives of the school and parish speak at this time:

Odile Steel, Principal, St. Anselm School, stated that the school enrollment is growing as people realize the value of catholic education, although there is a cap to the number of students at the school, and this is an opportunity to provide a comfortable facility for the Kindergarten room, a good-size Library, which is necessary for an academic school. She summarized by stating that the school is interested in offering the best education to their families.

Edith Stump, Manager of The Rummage Rack, said that she has been involved with the Rummage Rack for 15 years; that it is staffed by volunteers of the parish, and operates between 10:00 a.m. and 4:00 p.m. Tuesday through Friday. Ms. Stump pointed out that The Rummage Rack not only raises funds for the school and other needy projects, but that it provides an outlet for senior citizens to leave their homes and work productively for the needy.

Mr. McDonald pointed out that the new building has been designed with a corridor between the Kindergarten classroom and the Rummage Rack so that should the Rack not be functional in the future, it could be utilized as additional classroom space.

John Silvey, 50 Mariposa, stated that he has lived in his house since 1982 and feels that the commercial area is moving farther and farther down Mariposa Avenue. He does not want the parcel to be rezoned, he wants it to remain R-1. He wondered why the Rummage Rack could not remain in the same location. He was opposed to a General Plan amendment. He questioned why there was a need for this special amendment when it is not permitted in other R-1 districts.

Mike McCormick, Parish Finance Board, stated that the intent is to keep the community together. They are asking for a conditional use for the Rummage Rack and if it should not be functional in the future, it would revert back to R-1.

Resident, San Anselmo, stated that she is in the process of looking into the idea of a non profit thrift store for Brookside School. The site she is interested in is Red Hill School, which is behind the Red Hill Shopping Center. She stated that if this amendment is approved, she would also like it to include their intent.

Jerome Bohlman, 44 Mariposa, would rather see the Rummage Rack go into the C-3 area. He wondered what the limitations were if the building were sold. He stated that traffic doesn't seem to be a problem now but would the use include the sale of new items as well? This could potentially increase traffic. He felt that by moving the building will increase the use because the area will be increased.

Jim Rosa, Parish Finance Board, indicated that the sales area will actually be decreased, but there will be room for storage and offices, which currently does not exist.

M/S Yarish/Sias, to continue Amendment to the Zoning Ordinance Text to Conditionally Permit Retail Uses for Non-Profit Organizations within the R-1 (Single Family Residential) Districts. This is continued to a special meeting of 9/30/91.

Motion unanimously passed.

**3. GPA-9101/Z-9101/ER/LLR-9101/U-9104/V-9130/DR-9110 - Jim McDonald, 40 Belle, A/P 7-301-05, 7-301-16 and 7-301-17,** 1) Environmental review of the General Plan amendment and rezoning; 2) General Plan amendment to revise the land use map for a portion of the property currently C-3 to have a designation of R-1 and a portion currently R-1 to have a designation of C-3 (fronting Mariposa Avenue); 3) Rezoning of a portion of the property currently zoned C-3 to be rezoned to R-1 and a portion currently zoned R-1 to be rezoned to C-3 (fronting Mariposa Avenue); 4) Lot line relocation to create two parcels from three existing parcels; 5) A use permit, variance and design review to construct a new building and parking area within 6' of the west side property line (fronting Mariposa Avenue) to house current school activities; and 6) A use permit for the Rummage Rack location to be shifted from the C-3 zoned parcel to the adjacent R-1 parcel (located in the new building fronting Mariposa Avenue).

Director Chaney noted that the 1.5 of the Housing Elements states that the Town will discourage the displacement of existing residential uses to other uses or to higher priced housing unless there is a clear public benefit or equivalent housing can be provided. Therefore the findings must be met. In addition, if the finding is made, staff would propose that parcel 5 be made PPD for future development.

Jim McDonald stated that the new configuration of parking will allow for ingress and egress from both Mariposa and Richmond. He stated that the 6' setbacks would be adequate. He stated if the building is setback further, it will take away the children's play area. He said that the street and sidewalk are unusually wide and he did not feel there was a need to set the building back further. He was concerned about the PPD zone as suggested by staff. He felt the original intent of PPD zoning was for uniquely shaped lots and this lot is flat and not unique in any way. He did not feel it was fair to put further restrictions on the property.

John Silvey, 50 Mariposa, stated that the design needs to be changed. He did not feel the new building should be designed after the gymnasium. There needs to be additional landscaping and the building should be set back farther from the street. He did not think the 6' setback was adequate and that 12' would be more appropriate. He stated that the Church does not currently maintain the landscaping and he wanted to see a condition that the landscaping be adequately maintained. There is a large elm tree where the access is, and he wondered if that will be removed.

Jerome Bohlman, 44 Mariposa, stated that the architectural features of the gym are bland and would not like to see the new building look like the gym. He also felt the set backs should be 12'. He would like to see the ingress and egress remain on Richmond and not have traffic on Mariposa. He also would like to see a condition that states landscaping should be maintained.

M/S Sias/Kroot, to continue GPA-9101/Z-9101/ER/LLR-9101/U-9104/V-9130/DR-9110 - Jim McDonald, 40 Belle, A/P 7-301-05, 7-301-16 and 7-301-17, 1) Environmental review of the

TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES OF SEPTEMBER 16, 1991

property currently zoned C-3 to be rezoned to R-1 and a portion currently zoned R-1 to be rezoned to C-3 (fronting Mariposa Avenue); 4) Lot line relocation to create two parcels from three existing parcels; 5) A use permit, variance and design review to construct a new building and parking area within 6' of the west side property line (fronting Mariposa Avenue) to house current school activities; and 6) A use permit for the Rummage Rack location to be shifted from the C-3 zoned parcel to the adjacent R-1 parcel (located in the new building fronting Mariposa Avenue). This is continued to a special meeting of September 30, 1991.

Motion unanimously passed.

**4. V-9128 - Charles C. Mohun, 46 Broadmoor Ave, A/P 5-185-13, a 4'6" sideyard variance to construct a first and second story addition within 3'6" of the side property line, on property located within the R-1 zoning district.**

The applicant was present.

Mr. Washington presented the staff report.

Mr. Mohun felt that this addition was not going to be a detriment because he had the concurrence of the neighbors affected by the addition. He felt the variance should also be approved because he was just following the lines of the house and wanted to keep the same roof line.

Commissioner Harle felt that the addition was minor in nature and relatively unobtrusive but was having trouble making the findings for approval.

Commissioner Hayes concurred with Commissioner Hayes.

Commissioner's Yarish, Sias and Mihaly were unable to make the necessary findings for approval.

Commissioner Kroot felt that the encroachment was very minor and that it was a notch filler. The applicant is attempting to continue the lines of the house and the space would be totally useless if not used. There is currently very little outdoor living area and if the addition was placed elsewhere on the lot, the outdoor space would be diminished more.

Chair Julin felt that the house was unique and that the side of the house has a feeling of airiness and that the addition is compatible with what currently exists.

M/S Yarish/Sias, to deny V-9128 - Charles C. Mohun, 46 Broadmoor Ave, A/P 5-185-13, a 4'6" sideyard variance to construct a first and second story addition within 3'6" of the side property line, on property located within the R-1 zoning district.

*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. The existing setback of the neighboring house is five feet from the side property line. The applicant is concentrating the addition on this side of the house because the established building line is presently 3'6" from the side property line. However, vacant land area exists outside the required setback along the south side of the house which could be utilized for additional floor area. Therefore, the granting of a variance would warrant a special privilege for this applicant. 2) The granting of the 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 or the applicant and will not be detrimental to the public welfare or injurious to property or improvements in such neighborhood. A variance approval may have detrimental impacts to the immediate neighbors or the community at large due to its close proximity to the side property line (3'6") and the precedent such approval may set. Specifically, the second story addition will be adjacent to an existing structure one story in height and presently 5 feet from the side property line. Thus the immediate neighbor may be impacted by this addition.*

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

Motion denied.

M/S Harle/Hayes, to continue to 10/7/91 to allow the applicant time to reconsider his plans.

Motion unanimously passed.

TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES OF SEPTEMBER 16, 1991

5. **V-9129 Dennis Shine, 54 Yolanda, A/P 7-042-16**, a 3' 10" sideyard variance to construct a bathroom addition 4' 2" from the side property line and to further exceed the 35% lot coverage, on property located within the R-1 zoning district.

The applicants were present.

Mr. Washington presented the staff report.

Mr. Shine indicated that they desired the additional bathroom downstairs for health reasons.

The Commission was able to make the necessary findings because the encroachment was so minor in nature.

**M/S Sias/Hayes, to approve V-9129 Dennis Shine, 54 Yolanda, A/P 7-042-16**, a 3' 10" sideyard variance to construct a bathroom addition 4' 2" from the side property line and to further exceed the 35% lot coverage, on property located within the R-1 zoning district. The approval is based on the following findings: 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.* This addition is basically a reduction of floor space due to the fact that the existing shed will be removed and this is the most logical placement for the bathroom because the plumbing for the second floor bathroom is directly above. 2) *The granting of the 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 or the applicant and will not be detrimental to the public welfare or injurious to property or improvements in such neighborhood.* This variance approval will not have any detrimental impacts to the immediate neighbors or the community at large. The bathroom addition will be adjacent to a neighboring structure one story in height and presently between 8 and 10 feet from the side property line. This immediate neighbor should not be significantly impacted by this addition.

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

**E. ADJOURNMENT**

The regular meeting of the Planning Commission was adjourned at 12:30 a.m. to the special meeting of September 23, 1991