

TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF OCTOBER 5, 1992

The regular Planning Commission meeting was convened at 8:00 p.m. in the Council Chamber by Commissioner Sias. Planning Consultants Jayni Barker and Delvin Washington were present to represent staff.

A. CALL TO ORDER

Commissioners Present: Hayes, Julin, Israel, Sias
Commissioners Absent: Harle, Mihaly, Kroot

Staff requested that 12 Fairview be placed on the Consent Calendar.

B. CONSENT

1. **Minutes -**

- A. July 27, 1992
- B. August 31, 1992

2. **DR-9215 - Gary and Sally Bauman, 12 Fairview Court, A/P 5-071-42, Design Review of a first and second story addition to expand an existing 1,400 square foot home to a total of 2,850 square feet, on property located within the R-1 Zoning District (within the 150 feet mean sea level).**

M/S Julin/Hayes, to approve Consent Agenda.

Motion carried for consent with the following vote:

1. **Minutes:**

July 27, 1992:
Ayes: Sias, Hayes| Abstain: Julin, Israel

August 31, 1992:
Ayes: Julin, Sias; Abstain: Hayes, Israel

2. **DR-9215 - Gary and Sally Bauman, 12 Fairview Court, A/P 5-071-42, Design Review of a first and second story addition to expand an existing 1,400 square foot home to a total of 2,850 square feet, on property located within the R-1 Zoning District (within the 150' mean sea level). Approval is based on the following:**

1. Is functionally and aesthetically compatible with the existing improvements and the natural elements in the surrounding area. This proposed dwelling will utilize exterior materials that are consistent with those currently used on the existing house. The exterior finish will consist of horizontal wood and asphalt shingles and will not contrast with neighboring structures.
2. Provides for protection against noise, odors, and other factors which may make the environment less desirable. This proposal will not have any major long-term detrimental impacts on the environment. Conducting the proposed use (single family residential) will be consistent with current activities occurring in this neighborhood.
3. Will not tend to cause the surrounding area to depreciate materially in appearance or value or otherwise discourage occupancy. The expansion of an existing residence will not cause the depreciation of property values in the surrounding area. The improvement and expansion of this home may likely cause the appreciation of neighboring properties.
4. Will not create unnecessary traffic hazards due to congestion, distraction of motorists, or other factors and provides for satisfactory access by emergency vehicles and personnel. No additional vehicular trips will be generated by constructing an addition to this dwelling unit. The location of the house will not obscure visibility on Fairview Court nor will it inhibit the smooth flow of traffic to and from neighboring properties.
5. Will not adversely affect the health or safety of persons using the improvement or endanger properties located in the surrounding area. The proposed dwelling will conform with all established codes controlling building and grading associated with the construction of a new single family residence. These standards have been adopted to insure that new developments will not create any adverse or hazardous conditions during construction and after completion.
6. Conformance to the approved precise development plans. This property is zoned R-1 and a precise development plan is not required.
7. Adequacy of screening. There currently is a limited amount of vegetation along the front portion of this parcel. However, no existing trees are to be removed from the site due to the construction of this addition. The design and layout of the house will not be overly obtrusive to the neighborhood.
8. Selection of architectural features that enable the structure to blend with its

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environment. The proposed use of natural wood products will blend with neighboring homes. The proposed location also appears to have the least potential impact on the topography of this property. Conditions of approval are: 1. Construction be completed according to plans date stamped Received by the Town of San Anselmo on July 6, 1992. 2. Unless waived by the fire Chief of the Ross Valley Fire Department the applicant shall install an interior sprinkler system to the specification of that agency.

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

C. CONTINUED HEARING

1. **Water Well Ordinance - Town of San Anselmo** - A General Plan Amendment and Ordinance Code amendment to allow private domestic water systems and the adoption of a well ordinance relative to their construction, reconstruction, maintenance, removal and monitoring. CONTINUED TO THE MEETING OF OCTOBER 19, 1992

F. OPEN TIME FOR PUBLIC DISCUSSION (Taken out of order)

Barbara Schmidt, Austin Avenue, stated she has a love of oak trees and was concerned about protecting them during construction of the Helfrich project. She was also concerned about future construction in San Anselmo in that the homes should not be built out of scale for our Town...

D. PUBLIC HEARINGS

1. **V-9231/PDP-9202/S-9201 - James Helfrich, between 444 and 500 The Alameda, A/P Nos. 5-043-16, 5-043-22, 5-043-31, 177-133-13, 177-220-54.** The request is for a Precise Development Plan, Tentative Map and Variances to create four residential lots from five existing lots. This request would establish the location of four future homes and the location of the private drive. Separate Design Review approval of each home will be required prior to construction. Variance requests include: 1) an 11' variance to locate a parking deck within 9' of the rear property line (Site 1); 2) a 5' variance to locate a house within 15' of the rear property line (Site 2); and 3) to construct retaining walls over 30" in height within the front and rear yard setbacks (sites 1 and 2). The request also includes a variance to allow the size of one of the parcels to be less than the required one (1) acre minimum. Removal of one heritage tree (75 inches in circumference) will occur as part of this project.

Commissioner Israel stated he would abstain because he has not been present during any of the previous discussions on this lengthy project.

The applicant was present.

Jayni Barker presented the staff report.

Commissioner Hayes was very concerned about the Town Attorney's recommendation that nothing be changed on The MOU because he felt that there are prescriptive rights right to traverses through the access easement. He felt that although he respects the Town Attorney's advise, he wanted to see the access easement included.

Mr. Helfrich stated that he will not disallow people to use the easement but on the advise of his attorney he was advised that it would not be a good idea because the public access easement would dead-end into the adjacent private property and in essence could cause a liability issue.

Commissioner Hayes asked if the neighbors Engineer has time to meet with Mr. Helfrich's Engineers. Mr. Helfrich indicated that they have not yet connected but the files have always been available at Town Hall.

Commissioner Julin did not have much to add although she felt the original approval by the Planning Commission was superior to the project before the Commission now.

Commissioner Sias stated that although he also respects the advise of the Town Attorney, he was upset that there was a previous agreement that specified that the open space easement was not included. He did not understand why the easement needed a

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destination prior to it being accepted.

M/S Julin/Hayes to approve PDP-9202/S-9201 - James Helfrich, between 444 and 500 The Alameda, A/P Nos. 5-043-16, 5-043-22, 5-043-31, 177-133-13, 177-220-54. The request is for a Precise Development Plan, Tentative Map to create four residential lots from five existing lots.

Commissioner Sias did not feel he could support this resolution without including the pedestrian access easement. He felt this was against the General Plan. In due respect to the Town Council and the Town Attorney he felt that he had no alternative but to deny approval of the Precise Development Plan and Tentative May in this form.

Commissioner's Hayes and Julin were in agreement with Commissioner Sias.

Noes: Julin, Sias, Hayes
Abstain: Israel

M/S Hayes/Julin, to deny PDP-9202/S-9201 - James Helfrich, between 444 and 500 The Alameda, A/P Nos. 5-043-16, 5-043-22, 5-043-31, 177-133-13, 177-220-54. The request is for a Precise Development Plan, Tentative Map to create four residential lots from five existing lots. Denial is based on the grounds that: A. The MOU would permit construction of houses in the ridge zone yet it appears from previous evidence to the Commission that alternative sites outside the ridge zone exist. B. The Precise Development Plan does not adequately establish the access rights that have been established over a lengthy period of time over the hillside lands.

Ms. Barker noted that the siting of homes previously approved by the Town Council prior to the MOU has not changed.

Commissioner Hayes withdrew Condition A of Denial. Commissioner Julin accepted the withdrawal of Condition A.

Mr. Helfrich stated that if the Commission's only objection to the resolutions was the pedestrian access easement, he suggested that the Commission might consider approving the project with a condition that the access easement be included.

Commissioner Hayes/Julin withdrew their motion to deny.

M/S Julin/Hayes, to approve Planning Commission Resolution No. _____, with modifications for Precise Development Plan, PDP-9202 and Tentative Parcel Map S-9201, leading to the development of four single family homes in an area located on the south side of The Alameda between 444 and 500 The Alameda. Modifications are that Section 1(f) shall be modified to read "Prior to the recordation of a new Final Map for all or a portion of the project site, whichever shall occur first, the applicant shall offer for dedication to the Town of San Anselmo an easement having a minimum width of ten feet (10') and located along the center-line of the existing access easement traversing the project site to provide public pedestrian access". (This wording was taken from Town Council Resolution No. 3150, Sentence one only of Condition 4.) Also modified in the Resolution is to change the 15 day appeal period to a 10 day appeal period as required by law.

Ayes: Hayes, Julin, Sias
Abstain: Israel
Motion carried. Audience advised of the ten day appeal period.

M/S Julin, Hayes, to approve V-9231 - James Helfrich, between 444 and 500 The Alameda, A/P Nos. 5-043-16, 5-043-22, 5-043-31, 177-133-13, 177-220-54. Variance requests include: 1) an 11' variance to locate a parking deck within 9' of the rear property line (Site 1); 2) a 5' variance to locate a house within 15' of the rear property line (Site 2); and 3) to construct retaining walls over 30" in height within the front and rear yard setbacks (sites 1 and 2). The request also includes a variance to allow the size of one of the parcels to be less than the required one (1) acre minimum. Removal of one heritage tree (75 inches in circumference) will occur as part of this project. The Resolution was to be modified to change the 15 day appeal period to a 10 day appeal period as required by law.

Ayes: Hayes, Julin, Sias
Abstain: Israel
Motion carried. Audience advised of the ten day appeal period.

For the record, Commissioner Hayes stated that he voted for this under protest because the

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MOU was already signed.

2. **V-9206/DR-9205 William Johnson, 100 Chipman Place, A/P 7-271-21, an amendment to a design review/variance condition of approval regarding status of the second unit, on property located within the R-1C Zoning District.**

The applicant was present.

Delvin Washington presented the staff report.

Mr. Johnson stated that he was given a letter from the former owner that indicated that the second unit was not abandoned. He stated that he was also under the impression from staff, that this unit has always been a legal, non-conforming unit. He did not understand how Section 10-3.607(b) pertained to him with regard to the reference to the year 1963.

Barbara Schmidt, Austin Avenue, stated there was a landslide in that area in 1983.

Kathy Shatter, 155 Oak Avenue, stated that she has not seen the letter from Lido Pacific Asset Management Company and therefore is unable to address that aspect of it. However, she does not think the second unit was a legal matter or the Town Attorney would not be giving the Commission options. She stated that the second unit has always been an eye sore to her and is in direct proximity to her son's bedroom. She did not think this was an issue of fairness. The facts are that the unit was not lived in for a period of more than six months and therefore should not remain as a legal, non-conforming unit.

Bill Hendrickson, 90 Chipman Place, presented some facts to the Commission as follows: 4/27/90 - the fire on 100 Chipman; 10-22-90 - purchased by 1st Interstate Bank; 11/28/90 - Town of San Anselmo issued a demo permit; 2/19/91 - 1st Interstate Bank offered house for sale on the Court House Steps for \$350,000. On that same date Mr. Hendrickson contacted the Planning Department and was told that the cottage must be removed. 5/2/91 - The Town of San Anselmo issued a Resale Report #6061, with an attachment to the Report that states: "The main living quarters were destroyed by fire and the report done was for the 2nd unit. the 2nd unit has not been lived in for more than 6 months, so it is no longer legal. If the 2nd unit is to be used as temporary living quarters, it must be approved by the Town Planning Department for such use until a new house is built, with a time limit on such use." 8/15/91 Mr. Johnsons parents purchased the property; 8/30/91 - Mr. Johnson purchased a 65% interest.

Mr. Hendrickson went on to say that Mr. Johnson is a licensed Real Estate Broker and had full knowledge about the non conforming second unit. According to the PG&E records, from the date of the fire on the property until 8/15/91, there was no service given to the unit. 15 months is significantly longer than the allowed 6 months. During this time the property was in the hands of 1st Interstate Bank and they could have rented the second unit if they wanted to. He stated that he has followed this property closely because he had some intentions of purchasing the property and abandoning the second unit because of the negative impact it has had in the neighborhood. However, he dropped his interest in the matter when told by staff that the second unit could no longer be used. He stated that he would be willing to testify in court if necessary.

Peter Burke, 155 Oak Avenue, stated that the second unit would increase the density of the area. Although he did not live in the area during the time of the fire, he was told that the water pressure was not adequate to fight the fire and wondered if Mr. Johnson would be required to make any improvements in that area.

Michael Leary, 51 Chipman, asked for clarification on where the cars will be parked for the second unit.

Mr. Washington stated that the Town Attorney has not been made aware of the Resale Report #6061 that Mr. Hendrickson provided, although he felt that the Commission still had options open to them as stated in the staff report.

Mr. Johnson stated that there will be a fire sprinkler system in the house and a new fire main was not part of the approval for the main house.

Commissioner Julin thought the matter was not one that should be decided at the Commission level and that it was a legal matter.

Commissioner Israel stated that he has no history on this particular property however he felt that the Ordinance is very clear and this unit was not occupied for over six months.

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He admitted that although a fire is very traumatic, there was adequate time to have the second unit re-occupied.

Mr. Johnson stated that the second unit was occupied within 15-20 days after he purchased the property.

Commissioner Hayes was persuaded by fairness in this particular case.

Commissioner Sias agreed with Commissioner Julin in that this seemed to be more of a legal issue than a Planning Commission issue. He wanted to recommend not acting on the issue and referring it to the Town Attorney. He also stated that the Town Attorney was not provided with a copy of the Resale Report that stated the Town did not view this second unit as second unit any longer.

M/S Hayes/Israel, to continue V-9206/DR-9205 William Johnson, 100 Chipman Place, A/P 7-271-21, an amendment to a design review/variance condition of approval regarding status of the second unit, on property located within the R-1C Zoning District. This is continued to November 2, 1992, to allow the Town Attorney time to review the Resale Report #6061 and determine the legal status of the unit.

Commissioner Julin felt this was a legal issue and should not be handled at all by the Commission.

Ayes: Israel, Hayes, Sias

Noes: Julin

Application continued until November 2, 1992.

4. **V-9232 - Ali Akbar and Mary Kahn, 74 Broadmoor, A/P 5-171-03, a 3.5' north side yard variance to construct a second story addition within 4.5' of the north side property line; and 2) a 3' north side yard variance to construct a first story addition within 5' of the north side property line; and 3) a variance for the existing substandard parking to remain on property located within the R-1 Zoning District.**

The applicant was present.

Delvin Washington presented the staff report.

Mary Kahn stated that her next door neighbor was very much against their addition being built to the front of the property because of her loss of light and therefore they are moving the addition to the rear. She also spoke to her neighbor and was granted the right to use 1' to 1 1/2' of their driveway which will be paved. Mrs. Kahn stated that they have lived in the house for 18 years and now have three children and need to expand. She also has a home occupation, which she was granted by the Town and wants to use the upstairs room as an office.

Commissioner Israel stated that he was somewhat nervous about bringing the parking farther out into the street. although Broadmoor is quite wide, the property is right at a bend in the road, and would create a wall between your addition and your neighbor. He also felt the addition was out of scale and proportion for the neighborhood

Commissioner Hayes stated that the expansion of the driveway would probably work and therefore had no objection for that. He was concerned about the second story addition. Many of the homes in that neighborhood were built with 5' side yard set backs but he was concerned about getting too close to the property line.

Commissioner Julin had no objection to the parking variance but could not make the findings for the side yard variance, particularly the second story. She felt it was over intensification of property for the lot.

Commissioner Sias had no objection to the parking variance but could not support the side yard variance, particularly the second story. He stated that he would agree to a five yard setback for the first story but the second story would have to be pulled in. He suggested shifting the second story and perhaps stepping it back somewhat.

M/S Hayes/Julin to continue V-9232 - Ali Akbar and Mary Kahn, 74 Broadmoor, A/P 5-171-03, a 3.5' north side yard variance to construct a second story addition within 4.5' of the north side property line; and 2) a 3' north side yard variance to construct a first story addition within 5' of the north side property line; and 3) a variance for the existing substandard parking to remain on property located within the R-1 Zoning District.. This was continued to November 16, 1992, to allow the applicant adequate time to redesign

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her project.

Motion unanimously passed.

5. **V-9233 - Jake Dear, 227 Brookside Drive, A/P 5-111-20, a 5.5' east side yard variance to construct a family room and bathroom addition within 2.5' of the east side property line; and 2) a 12' rearyard variance to construct a storage building within 8' of the rear property line, on property located within the R-1 Zoning District.**

The applicant was present.

Delvin Washington presented the staff report.

Mr. Dear presented photographs of his site. He also presented letters of support from his neighbors, particularly the neighbor most affected by the addition. He stated they are going to a considerable expense to keep the low profile instead of building up and adversely affecting their neighbors.

Susan Horst, 228 Brookside, stated she lived directly across the street and supported the addition.

Chris O'Conner, Contractor for the Dears, stated that this proposal was the most unobtrusive addition and would not adversely affect the neighbors view, light or air. In addition an existing oak tree would have to be significantly pruned if the addition was to go up. He stated that several other variances have been granted in the neighborhood.

All the Commissioners supported this application and were able to make the required findings because of the steep topography to the rear of the property and because it was the most logical place for the addition.

M/S Hayes/Israel, to approve V-9233 - Jake Dear, 227 Brookside Drive, A/P 5-111-20, a 5.5' east side yard variance to construct a family room and bathroom addition within 2.5' of the east side property line; and 2) a 12' rearyard variance to construct a storage building within 8' of the rear property line, on property located within the R-1 Zoning District. The basis for approval was as follows: 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.* Familyroom/Bath: Special circumstances for granting approval are the steep terrain to the rear of the lot and proximity of existing house to the property line; Storage Room: Special circumstances for granting approval are the steepness of the lot to the rear; the location of the addition is the most logical location from a planning standpoint; and will be much less of an impact on the neighbors, most specifically the uphill neighbor located at #12 Brookmont Circle. 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 of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood.* This addition will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and in fact the neighbors have submitted letters of support for the project. Approval is based on drawings submitted, dated Stamped Town of San Anselmo 9/18/92. Motion unanimously passed. Audience advised of the ten day appeal period.

E. GENERAL DISCUSSION

There was none.

G. ADJOURNMENT

The meeting was adjourn at 11:00 p.m. to the next meeting of October 19, 1992.

BARBARA CHAMBERS