

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES OF NOVEMBER 2, 1992**

The regular meeting of the Planning Commission was convened at 8:00 p.m. in the Council Chamber by Chairman Kroot. Staff present was Planning Director Ann Chaney and Planning Consultant Delvin Washington.

**A. ROLL CALL**

Commissioner's Present: Kroot, Mihaly, Julin, Hayes  
Commissioner's Absent: Sias, Harle, Israel

**B. CONSENT**

**Chairman Kroot suggested that Item D. 5 be placed on the Consent Agenda if there was no objection by the public or the Commission.**

1. **Minutes - September 14, October 19, 1992**
2. **V-9237 - William Bergman, 71 Longwood Drive, A/P 6-262-21, a variance to construct an addition that will project 2' into the required 20' front setback and 3' into the required 8' side yard setback, on property located within the R-1 Zoning District (Above 150' mean sea level).**
- D.5. LLR3-9238 - June Hyde, 82 and 86 Medway, A/P 5-153-30, and 31, Lot Line Adjustment (will not result in the creation of a new building site); and a parking variance for on site parking and retaining walls to be located within 1.5' of the east side property line and within 0' of the front property line, on property located within the R-1 Zoning District.**

M/S Mihaly/Julin, to approve Consent Agenda. Required findings for approval are as follows:

**71 Longwood Drive**

*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 site has an unusual configuration and the level area which can accommodate an addition is very limited. The front yard is the most appropriate and logical area to construct an addition. This cannot be considered a special privilege because other neighboring properties which have similar topographical features appear to project into the required setback. This neighborhood is located on a knoll so that the level area suitable for construction is limited. 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. The variance approval will not have any detrimental impacts to the immediate neighbors or the community at large. This portion of the house will not significantly impact the neighbor residence located at 67 Longwood Drive.*

**82 and 86 Medway**

**Lot Line Relocation:** The relocation of the lot lines is consistent with the General Plan and Zoning Ordinance. Staff is able to make the finding that the lot line relocation is consistent with the General Plan and Zoning Ordinance. While a straight property line between the two parcels would be more in keeping with good planning, staff supports the zig zag in this particular case because it 1) provides the required minimum setback for the existing dwelling on 86 Medway Road; and 2) does not reduce the size of the 82 Medway parcel below the minimum lot size.  
**Parking Variance:** 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 zone in which such property is situated. The special circumstance findings are the shape, size, and topography of the lot. The lot narrows from front to rear, which necessitates a side yard variance. The topography of the front of the lot is steep, which necessitates placing the parking towards the front of the property. The location of the parking location, as well as better sight distance for vehicles traveling west on Medway Road. Neighboring properties also have parking within the front and side setbacks, so the granting of this variance would not be a grant of special privileges. 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. The proposed parking area will have an extension of the existing rock walls which front both parcels. The parking area will be the least unobtrusive as possible because it will be an open

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES OF NOVEMBER 2, 1992**

parking area. Providing on-site parking to this dwelling will be an improvement to the neighborhood and decrease the demand for street parking.

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

**C. CONTINUED PUBLIC HEARINGS**

1. **DR-9216 - Nelly Dolinsek, 37 Canyon Road**, A/P 7-064-16, 1) design review to demolish an existing dwelling and construct a new single family dwelling; and 2) removal of one (1) 36" diameter heritage tree, on property located within the R-1 Zoning District (within the 150' mean sea level). CONTINUED TO THE MEETING OF NOVEMBER 16, 1992
2. **V-9217 - Robert and Suzanne Legnitto, 20 Bolinas Road**, A/P 7-302-21, a 3'6" side yard variance to construct a first and second story addition within 4'6" of the required 8' side yard setback on property located within the R-1 Zoning District. CONTINUED TO THE MEETING OF NOVEMBER 16, 1992
3. **PDP-9203 - Ben O'Hare, Redwood Road** (near 269 Redwood Road), A/P 7-141-04, 7-097-05 and 7-097-02, Preliminary Development Plan for the creation of two parcels from three existing parcels and the ultimate development of two homes and the extension of a private driveway. The 2.6 acre site is located along Redwood Road near 269 Redwood Road. The property is located within the R-1H Zoning District. CONTINUED TO THE MEETING OF NOVEMBER 16, 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. CONTINUED TO THE MEETING OF NOVEMBER 16, 1992.
5. **PP-9/AR-7 (Amendment) - Robert Yeakey, 80 South Oak Avenue**, A/P 7-241-50, The applicant is requesting that he be allowed to install a private water system, rather than the previously required public water system, to serve his approved, yet unbuilt, house, on property located within the R-1H Zoning District. CONTINUED TO THE MEETING OF NOVEMBER 16, 1992.
6. **C-221 - Tom Ayers, 805 Sir Francis Drake Blvd.** A/P 6-082-14, Design Review Amendment to change the exterior color of an existing commercial structure, on property located within the CL (Commercial-Limited) Zoning District. CONTINUED TO THE MEETING OF DECEMBER 7, 1992

**D. PUBLIC HEARINGS**

2. **U-9203 - Jean Brunswick and LaMonte Cochran, 22 Magnolia Avenue**, A/P 7-212-34, a use permit to allow for a residential duplex on property located within the P Zoning District.

Heard out of order.

Frank Unciano, Contractor, and the applicant's representative was present.

Ms. Chaney presented the staff report as well as the color board of proposed colors and a description of the proposed fence. She stated that although those items are not listed in the staff report, they should be part of the conditions if the project is to be approved.

Commissioner Julin stated that she had difficulty in reading the plans in that there seemed to be discrepancies in the drawings.

Commissioner Mihaly asked if this parcel would be required to have a subdivision map prepared, similar to a condominium map, because of the two separate dwellings on the lot. He also asked if there was a requirement for landscaping.

Ms. Chaney stated that the lots on this parcel would be for rental only, and would not fall under the condominium map act. With regard to landscaping, she stated that she would require as a condition of approval that a landscaping plan be brought in to the Planning Director for review, prior to completion of the project. Her intention was then to bring it to the Commission for informational purposes.

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES OF NOVEMBER 2, 1992**

Commissioner Julin was unable to support two units on the site because of over intensification. Although it was a permitted use, she did not feel it was a right.

Commissioner Hayes stated that although this lot was zoned R-2, it was well below the standard lot size for R-1, and he concurred with Commissioner Julin that two units on the lot would be over intensification. He was also uncomfortable about the access through the Town parking lot. With regard to landscaping, he felt it was very important that proper landscaping be planted because of the highly visible location.

Commissioner Mihaly was sympathetic with his colleagues but he supported the staff recommendation of approval on the grounds that the units are relatively simple and would allow two moderate houses within San Anselmo. He also felt the location was the most suitable, at the end of a residential neighborhood, and next to the parking lot. With regard to access, he felt that he would go with the judgement of the Public Works Director's recommendation. He noted that he would like to see the lot heavily landscaped.

Chairman Kroot concurred with Commissioner Mihaly. He felt that this lot could accommodate two small units better than one large one. He felt the proposed colors were adequate and agrees with the access through the parking lot.

Commissioner Hayes stated that it would be difficult to maneuver cars in and out of the parking area. Ms. Chaney stated that it would be workable and that the typical back out area required is 24' to 25'.

Commissioner Julin asked if the porch at the entry was included in the required setback? She also questioned access to the unit in the rear.

Mr. Onciano stated that the rear unit was not designed to have access to the front unit and if the porch was of a concern, the porch or eaves could be removed.

M/S Mihaly/Hayes (for purposes of discussion), to approve  
U-9203 - Jean Brunswick and LaMonte Cochran, 22 Magnolia Avenue, A/P 7-212-34, a use permit to allow for a residential duplex on property located within the P Zoning District.

Chairman Kroot and Commissioner Mihaly stated again that he felt this would allow moderate housing. It was also noted that this application would have to go to the Council for the access easement and the Council would have final approval on this project.

Commissioner Julin stated that she was not against additional housing, she just felt this lot was too small for the proposed project and in a sensitive location. She also did not agree with the idea of reviewing a landscape plan after the project has been developed.

Ayes: Mihaly, Kroot

Noes: Hayes, Julin

Motion failed. Project denied. Applicant advised of the ten day appeal period. The consensus of the Commission was also to recommend that the Council consider waiving the appeal.

1. 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.

Mr. Washington presented the staff report.

Mr. Johnson stated that his intent is to apply for a use permit for the second unit if the Planning Commission does not feel the current status of legal, non-conforming can be retained.

Bill Hendrickson, 90 Chipman Place, stated that his investigation proved that the second unit was vacant for more than six months. He hoped the Planning Commission would abide by the Town Attorney's recommendation of denial for the second unit.

The consensus of the Commission was to rely on the Town Attorney's recommendation.

M/S Hayes/Mihaly, to amend Condition No. 11 of the approval of V-9206/DR-9205 - William Johnson, 100 Chipman Place, A/P 7-271-21 as follows: "11. It has been determined that the legal, non-conforming second unit is no longer legal on the grounds that it has been voluntarily abandoned for a period of time exceeding six (6) months and does not conform to section 10-3.607(b) of the San Anselmo Municipal Code."

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

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES OF NOVEMBER 2, 1992**

Scott Hochstrasser read his responses to the proposed Water Well Ordinance. His comments are included in his memorandum to Ann Chaney, dated October 19, 1992. As far as the attachment that Ms. Chaney just passed out, he stated that it was not clear how the review process would work although he felt it should be done prior to the development of the project.

Robert Anderson, stated he concurred with Mr. Hochstrasser in that once a well was working, there should not be a requirement to make them hookup to MMWD once the water was available. He stated that he was involved with this process in Sausalito and in fact, in San Anselmo there are very few parcels that would be affected by this ordinance. It should be noted that the only way parcels will get fire protection is if they are hooked up to MMWD and that is an important factor. He did not think the \$5,000 bond was an issue and if enforcement was an issue, it should be enforced through the occupancy permit. Another suggest would be a Hold Harmless Agreement.

Bill Hendrickson, 90 Chipman Place, stated that he supported staff's findings. He wondered what, if any impact this would have on pre-existing domestic wells. This should also be stated in the Ordinance.

Robert Anderson stated that he felt it was better to use natural water rather than that through MMWD. He felt the real interest was in fire protection and the purity of the water.

Ms. Chaney stated that the state of the art has not been determined yet about the quality and quantity of aqua furs. Monitoring seems to be on the part of the property owners and the Environmental Health Department, and the Health Department has stated that they do not monitor the quality of the water. She stated that the \$5,000 bond was not cast in concrete. With regard to "...and/or.... on page 3 of the ordinance, she did not think she had a problem with that.

Commissioner Julin had no objection to changing "...and/or...and was comfortable with a \$5,000 bond or what ever else was feasible. She noted that she felt staff did an excellent job in the preparation of the Ordinance.

Commissioner Hayes strongly supports connecting with MMWD. He felt it was very important to hook up to MMWD for health and safety reasons. He was opposed to the deposit, but suggested that perhaps a deed restriction would work.

Commissioner Mihaly stated that he concurred with the staff report and with the hook up to MMWD. With regard to enforcement he would be able to live with the language as it is.

Chairman Kroot was opposed to the staff report and concurred with Mr. Hochstrasser. He agrees that applicants should first hook up to MMWD, but if water isn't available from MMWD, they should not be required to put in a meter after paying for a well. With regard to the purity of the water, he is not sure that MMWD has better water than well water. He recently read that the pipes in the district may not survive a major earthquake. It could be a safety advantage to have some wells in Town.

M/S Mihaly/Julin, to approve 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. This approval is based on the Staff Report dated For the Meeting of November 2, 1992, with recommendations as follows: 1. Approve the attached Mitigated Negative Declaration. 2. Approve the following amendments and recommend that the Town Council: a) Amend Policies 12.2 and 13.2 of the Land Use Element of the General Plan, as proposed by staff; b) Amend Section 10-2.301(f) of the San Anselmo Municipal Code, as proposed by staff; and c) Amend the SAMC by adopting the attached proposed water well ordinance (new Chapter 20) and; amending Policy 13.2 to state: " If a water moratorium exists and/or.....". And further, to directed Staff to look into, but not levy, an enforcement procedure for domestic wells.

Ayes: Hayes, Julin, Mihaly

Noes: Kroot

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

6. U-9205/V-9239 - Steve Thompson, 26 Alder Avenue, A/P 7-041-32, Use Permit for a second unit, and a parking variance for the third parking space to be in tandem, substandard in length, and within 0' of the front property line on the driveway, on property located within the R-1 Zoning District.

The applicant was present.

Ms. Chaney presented the staff report in the absence of Planner Lisa Wight.

Mr. Thompkins stated that he was opposed to widening the driveway. They currently park a car in the driveway, and are able to get both cars out of the garage without moving the car in the

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES OF NOVEMBER 2, 1992**

3. **V-9213 - Harry Kraft, 214 The Alameda**, A/P 5-054-07, a 20' front yard variance to allow a 7'3" existing trellis structure to remain within 0' of the front and side property line; and an appeal of the Public Works Department administrative decision to deny the 6' fence within 5.5' of the front property line and within 0' of the south side property line, on property located in the R-1 Zoning District. (AFTER-THE-FACT).

The applicant was present.

Ms. Chaney presented the staff report.

Commissioner Mihaly asked if the Country Specifications used by the Building were part of the Town Ordinance or where they used just as a guideline.

Ms. Chaney read Ordinance 10-3.1906 regarding fence regulations.

Mr. Kraft stated that he purchased the house with the existing fence. He stated that if the fence is a safety issue, he did not think it was a detriment. His neighbors across the street and on either side of the property approve of the fence and he presented a letter from them to that affect.

Commissioner Mihaly did not feel it was necessary to have the applicant chop off 7' of the trellis to have it conform. He did support the Building Inspector's judgement regarding the fence height.

Commissioner's Julin and Hayes concurred with Commissioner Mihaly regarding the trellis.

Commissioner Hayes was not sure that the fence was a sight distance problem and added that they felt there should be further discussions regarding front fences.

Chairman Kroot had no objection to the fence or the trellis and did not feel the dimensions of the fence would affect the health or safety of the neighborhood.

M/S Mihaly/Julin to approve V-9213 - Harry Kraft, 214 The Alameda, A/P 5-054-07, a 20' front yard variance to allow a 7'3" existing trellis structure to remain within 0' of the front and side property line. The basis for approval is: 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 special circumstances are that the dimensions will not affect adversely the health and 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.

M/S Mihaly/Hayes, to continue Harry Kraft, 214 The Alameda, A/P 5-054-07, an appeal of the Public Works Department decision to deny a 6' fence within 5'6" of the front property line and within 0' of the side property line. This is continued until the meeting of December 7, 1992, at which time the Public Works Director will be able to respond to the questions of the Planning Commission. Motion unanimously passed.

4. **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.

Ms. Chaney presented the staff report. She handed out an attachment to the staff report, which read as follows:

To ensure that the MMWD connection is made as soon as water is available, and the well is either abandoned or converted for non-potable use only, the owner shall provide the following:

1. A written statement from MMWD stating that the owner has been placed on a list for water allocation through MMWD.
2. A written statement from the owner that domestic use of the well will be discontinued as soon as MMWD water is available, and a connection is made.
3. A cash deposit, made payable to the Town of San Anselmo, in the amount of \$5,000, to be refunded plus accrued interest when MMWD hookup has been demonstrated, and the well is no longer being used for domestic purposes. If a MMWD water connection is not performed within 120 days of receipt of an MMWD water allocation, the cash deposit shall not be refunded. This will not obviate the owner's responsibility for connecting to MMWD.

TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES OF NOVEMBER 2, 1992

driveway.

Commissioner Hayes stated that if the applicant is currently able to maneuver the cars out of the garage without tandem parking then he saw no reason not to let it continue.

The other Commissioners had nothing further to add.

M/S Hayes/Julin, to approve U-9205/V-9239 - Steve Thompson, 26 Alder Avenue, A/P 7-041-32, Use Permit for a second unit, and a parking variance for the third parking space to be substandard in length, and within 0' of the front property line on the driveway, on property located within the R-1 Zoning District. Approval is based on the following findings.

Parking Variance.

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. A special circumstance finding can be made for the 87' to 107' depth of the lot in that the majority of the other properties in the neighborhood have lots ranging between 146' and 166' in depth, and this finding can support the setback variance for the third parking space. However, there are no special circumstances to warrant the substandard tandem parking space length of 16', which staff believes is not workable and could result in vehicles overhanging the sidewalk. There is an opportunity to provide the third parking space clear of the garage by removing a small portion of the grass and replacing with an all weather surface.
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.

Use Permit

1. Falls within the maximum number of residential second units authorized by resolution of the Council for the single family residential use area in which the unit is located. A maximum of 9 second units are permitted in the Yolanda neighborhood, which includes Alder, Berlin, Breenfleck, Karl, and Yolanda Avenues, Agatha Court, and Taylor Street. Should this second unit be approved, there will be two remaining openings in the Yolanda neighborhood.
2. Is located on an Assessor's Parcel on which the owner of record maintains his principal residence. The owners of record maintains his principal residence. The owners of record maintain their principal residence on subject property.
3. Does not encroach upon required setbacks, or cover land in excess of the 35% maximum lot coverage, or necessitate vehicular parking within required setbacks unless a variance shall have been granted. The second unit conforms to all of the development standards, with the exception of parking. The third parking space necessitates a variance for both setbacks and tandem.
4. Meets all applicable Codes in effect at the time of the establishment of the unit. Permits will be required for the kitchen and be subject to inspections and approval by the Building Inspector prior to the issuance of occupancy.
5. Has been made the subject of a rent guarantee contract between the applicant and the Town. The rent guarantee agreement will be completed and recorded prior to the issuance of permits for the unit.
6. Does not cause excessive noise, traffic, parking, or overloading of public facilities. Alder Avenue is a wide, well maintained road in a level area of town, easily accessible from Center Boulevard. It should not cause excessive noise, traffic, or parking. The second living unit cannot be established with the cooking facilities as a separate unit from the main dwelling unit until such time that the Marin Municipal Water District releases its moratorium. Second units constructed after 1988 will not be served by the Water District regardless of whether or not there is a separate meter required.
7. The establishment, maintenance, or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property or improvements in the neighborhood or the general welfare of the Town. Alder Avenue is an ideal location for a second unit, given the proximity to neighborhood shopping on Center Boulevard and bus transportation on Sir Francis Drake Boulevard. The property is well maintained and the existing living area is unobtrusive, not appearing as a separate living unit. **Conditions of approval are that there be approval from MMWD for water to the unit; and that the project be built according to plans dated Received by the Town of San Anselmo, 8/20/92.**

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

**E. GENERAL DISCUSSION**

There was none.

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES OF NOVEMBER 2, 1992**

**F. OPEN TIME FOR PUBLIC DISCUSSION**

There was none.

**G. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL**

**H. ADJOURNMENT**

The regular meeting of the Planning Commission was adjourned at 11:45 p.m. to the next regular meeting of November 16, 1992.

BARBARA CHAMBERS