

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES FOR THE MEETING OF SEPTEMBER 20, 1993**

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

A. CALL TO ORDER

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

B. CONSENT

1. Minutes - September 7, 1993
2. V-9329 - Jerry TenEyck, 434 Laurel Avenue, A/P 7-121-37, a variance to construct an addition that will project 1'6" into the required 8' side yard setback, on property located within the R-1 Zoning District.

Commissioner Israel asked for a clarification on Item B2. The Agenda indicates a 1'6" projection into the side yard and the staff reports states 2'2". Which is correct. Ms. Chaney stated that for the purposes of noticing, staff took the larger of the projections however, the applicant stated the variance request was for 2'2".

M/S Sias/Julin, to approve Consent Agenda. Conditions of Approval are as follows:

434 Laurel Avenue

1. That applicant shall obtain all necessary development permits and conform with all adopted standards of the Building and Public Works Department. 2. The addition shall be constructed according to the plans date stamped received August 13, 1993 by the Town of San Anselmo. 3. That if this development which has received discretionary approval has not begun within one year from the date of the final action, the permit shall become null and void. However, this discretionary action may be renewed by the Planning Director for a maximum period of one (1) year provided the applicant places such request in writing to the Director prior to the expiration of the discretionary action.

Ayes: Sias, Israel, Julin, Kroot, Mihaly
Abstain: Harle

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

C. CONTINUED PUBLIC HEARINGS

1. DR-9314 - Andrea Moyer of 43 Tomahawk Drive representing the Quarry Mountain neighborhood, A/P 177-220-66 thru 68, 177-250-57 thru 65, a design review request to add new exterior color options to the approved color palette for homes on Quarry Mountain, on property located within the R-1-H Zoning District. **CONTINUED TO THE MEETING OF OCTOBER 4, 1993**
2. V-9328/DR-9320 - Edmund Coyne, 25 Canyon Road, A/P 7-064-14, a design review and variance to construct a new single family residence 15'6" from the front property line (20' required), and to remove six (6) required trees having trunks between 14" and 24" in diameter, on property located within the R-1 Zoning District (Above 150' mean sea level). **CONTINUED TO THE MEETING OF OCTOBER 18, 1993**

D. PUBLIC HEARINGS

1. NU-9302/DR-9120 - Th.F. Posthuma, 379 Oak Avenue, A/P 7-241-61, 1) a use permit to establish a second unit; and 2) an amendment to an existing design review approval to allow the construction of a new detached 2 car garage and to construct a two story addition, on property located within the R-1 Zoning District.

The applicant and Alex Kaplin his Architect, were present.

Ms. Chaney explained that she has reread State Law and consequently the option of forwarding the project to the Town Council should be changed to continue the item to the Town Council. Also, relating to the six month time period, staff has recalculated the time frame and wanted the Planning Commission to know that the time limit will expire on October 31, 1993, which is later than originally thought.

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Mr. Washington presented the staff report and photographs of the site. He stated that staff is recommending approval of garage, and second unit but suggests that design review be continued to the Town Council because of their strong feelings on the size of the house.

Commissioner Julin questioned Finding Number 6 on page 5 of the staff report. During the early stages of the process, there was a second access granted, off of upper Oak Avenue. The Commission was told that the garage on the lower portion of the lot would not be used. She wondered if the parking for the second unit would be on the lower portion of the lot.

Mr. Washington stated that parking would be off of South Oak by the easement. He stated that there was never a condition that forced him to remove the garage that is on the lower site.

Julin also asked staff to explain Section 10-3.2004. Ms. Chaney read the Ordinance. Commissioner Julin stated that she would like to be walked through staff's reasoning about being able to make the findings. Mr. Washington stated that there is ample space on the lot, access can be accommodated, there was adequate space to meet the parking requirements for both the main house and the second unit. Also, the Fire Chief stated that access to the area, although difficult to get to, will not increase density that much to prohibit access to the site. As it is designed, the project will not be a major impact of the neighbors, and the second unit has been incorporated into the main house; Ms. Chaney stated that staff would not be able to state that the second unit was a right to the property owner.

Commissioner Israel asked if the layout of the upper parking was part of the original application or the current one. Ms. Washington stated that it was part of the original plan.

Chairman Mihaly asked staff if there was another option for the placement of the garage. Mr. Washington stated that staff looked at the possibility of having the garage in the upper portion of Oak Avenue, which might reduce the visibility, but staff did not feel comfortable making a recommendation because of the stability of the lot and other unknown factors.

Chairman Mihaly asked if the landscaping plan should be altered because of the new proposal. Mr. Washington stated that additional landscaping would be a good idea between the garage and the property line. Ms. Chaney added that the garage is most visible at the entrance of the driveway.

Mr. Kaplin stated that a letter was written to the Planning Commission that talk about the bulk, height and over development of the property. He felt that all of the comments were without foundation. The house is very well screened and in conformance with the neighborhood. An effort is being made to suggest that Mr. Posthuma has irrevocable made a statement that a second unit would never been granted and this should not be a reflection that he is going back on his word. A second unit is now available and Mr. Posthuma has a right to apply. The addition is modest and they would be willing to work out a design and proper location for the garage with staff.

Mr. Posthuma stated he would like to keep as little amount of distance from the garage to the house as possible. He also felt it was the most logical parking for the site for ingress and egress. He said that he will be giving up a lower parking space for the location of the addition and that parking for the second unit is proposed on the lower portion of the lot.

Public hearing closed.

Commissioner Kroot stated that the Planning Commission cannot remove the deed restriction because it was imposed by the Town Council and felt the Commission would be wasting their time if the Town Council doesn't remove the deed restriction. The Council felt strongly about the size of the house and therefore wanted direction from the Town Council. He would like to continue the application to a future date and have the Council hear the matter first for advise and guidance.

Commissioner Julin would like to make an action to deny the second unit and the design review for the reasons as stated at the last meeting. The second unit is over loading the site; permitting a second unit would be undermining the purpose of the Town for granting the second access variance. This site is also used for a home occupation and to add another discretionary approval to the site is almost showing that the Town has granted too much to a single family neighborhood would be over intensity. She is still concerned about the health and safety issues regarding fire safety and not just relative to fire response time; regarding design review, the existing addition looms over the easement at the lower portion of the site and to add more over this easement would make it loom more. The applicant had an opportunity in the past to integrate the plan and therefore seems too much of a fragmentation. She was really concerned about the excessive grading and erosion and the effects it will have downstream.

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Commissioner Harle stated that this proposal looks like it is in compatibility with what was originally approved and therefore would go with approval of the design review, second unit and garage. This is a relatively low density area and a good place for a second unit.

Commissioner Israel concurred with Commissioner Kroot. He would have more flexibility if he knew the Council would remove the deed restriction and then reserve the Planning Commission right to look at the design review and the second unit. Also, since the Council placed the deed restriction, they would have to remove it. Regarding second units, Oak Avenue doesn't seem to be such an ideal area and would like to see a second unit traded off to another area more suitable. However, if that cannot be done, he thought this site is ideal because it is not over developed but is strongly opposed to the current location of the garage and would support the garage in the previously proposed location. He stated it was his sense that the owner below Mr. Posthuma was opposed to the length of the house and therefore would like to see the addition moved back. The garage does not seem well integrated and he is strongly opposed to the notion that it is more visible coming down Oak Avenue. The lower portion of the site and landscaped.

Commissioner Sias stated there is a tremendous amount of testimony on this project and now the Commission is asked to disassemble the project. He felt that a decision should be made tonight to reaffirm the size that was approved by the Town Council. Therefore, he wanted to vote tonight to deny the second unit, deny the design review and send it on the Town Council. His second choice would be to look at the staff report which stated that the addition will have to be in the confines of the existing house. He was opposed to a garage, but would think a parking pad would be the most logical and least visible. A second unit in the hills with difficult access, will increase hazards.

Chairman Mihaly was in favor of approving the second unit and continue the design review. He was puzzled as what to do with the driveway by the easement. He would probably want staff to prepare a study on the driveway easement and access.

M/S Israel/Kroot, to continue NU-9302/DR-9120 - Th.F. Posthuma, 379 Oak Avenue, A/P 7-241-61, 1) a use permit to establish a second unit; and 2) an amendment to an existing design review approval to allow the construction of a new detached 2 car garage and to construct a two story addition, on property located within the R-1 Zoning District. This continuance is to allow the Town Council to hear the matter of the design review and use permit at their October 12th TC meeting and then be continued to the Planning Commission meeting of October 18th/.

Commissioner Sias stated that the second unit deed restriction exists by the Town Council and therefore should be denied. The design review should be continued until after it is heard at the Council.

Commissioner Kroot stated that the Town Council should make the decision prior to the Planning Commission.

Commissioner Israel stated that the continuance allows the applicant the opportunity to go to the Council without having to pay the appeal fee.

Commissioner Sias stated that he could probably vote approval on the second unit if the Town Council removed the deed restriction as long as the addition becomes no larger.

Commissioner Julin stated that the deed restriction was originally a recommendation of the Planning Commission and acted on by the Town Council. She stated that it should be made very clear to the Town Council what the Commission really feels.

Mr. Posthuma stated that a second unit has been made available and staff informed him. He felt the Planning Commission should make a decision. He suggests that the Town Council meet with the Planning Commission in private and then hold another meeting. Chairman Mihaly stated that the Commission is not allowed to meet in private session with the Council.

Chairman Mihaly clarified that the planning action starts at the Planning Commission, and therefore the Commission could take action to remove the deed restriction. If there is opposition to the Planning Commission decision, the decision can be appealed to the Town Council.

Commissioner Julin felt it would be detrimental to take a step to undo the hundreds of hours of public testimony, staff time, Planning Commission and Town Council time and it would be detrimental to dismantle what has already been done.

Commissioner Israel stated that he did not realize that they had the right to remove the deed restriction and that is why he made the motion for continuance.

Sias, Harle, Julin: No

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Kroot, Israel, Mihaly: Yes

Motion denied.

M/S Sias/Kroot, to deny NU-9302 - Th.F. Posthuma, 379 Oak Avenue, A/P 7-241-61, 1) a use permit to establish a second unit; on property located within the R-1 Zoning District. Denial is based on the grounds that there is a deed restriction on the property that was imposed by the Town Council after a long process where there was hours of testimony. The Commission also determined that a second unit would be harmful to the community and would constitute over development on this site.

Israel, Julin, Kroot, Sias: Yes
Harle, Mihaly: No

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

M/S Sias/Julin, to deny DR-9120 - Th.F. Posthuma, 379 Oak Avenue, A/P 7-241-61, an amendment to an existing design review approval to allow the construction of a new detached 2 car garage and to construct a two story addition, on property located within the R-1 Zoning District. Denial of the design review is because it would create over development of the site would not be functional or aesthetically compatible with the neighborhood and the size would be to large for the neighborhood.

Harle, Mihaly: No
Julin, Kroot, Sias: Yes
Israel: Abstain

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

2. TOWN OF SAN ANSELMO - Discussion of existing Ordinance that permits 6' high fences/walls within the front yard setback.

Ms. Chaney presented the staff report.

Commissioner Kroot asked if there was any public interest for a change.

Commissioner Sias stated that it warrants some discussion because the Town seems a little out of step with the other communities.

Commissioner Israel stated that The Alameda feels like a corridor and if all of Sir Francis Drake had high fences it would be very unsightly.. He also felt there should be some restriction about curb line fences.

Ms. Chaney stated that she feels very strongly about the fence heights and the community would drastically change if 6' fences continued to be allowed.

Commissioner Sias did not want to see a streetscape that was all walled off. He would like to look at an ordinance that allows for 4' heights with design review up to six feet.

Commissioner Israel liked the ordinance that San Rafael has.

Commissioner Julin stated that a design review is required in San Rafael and would like to change our approach from variance to design review.

Chairman Mihaly liked the San Rafael approach and felt the Planning Commission should take action and not wait for the community to speak out. He also agreed about the design review approach. If there are certain areas that require higher fences, then write it into the ordinance.

George Traeger, citizen, would like thought given to allow higher fences in areas surrounded by open space.

Commissioner Harle stated they should investigate why people are erecting fences. In his neighborhood, people want to keep out the deer. Also, people may want to protect their landscape. Some 6' fences could be made to be aesthetically pleasing.

Commissioner Sias agreed that the reasons for the 6' fences should be studied. He suggested that there be a survey of those people who have obtained fences in the last year.

The consensus that there is enough sentiment to have staff look into changing the ordinance based on the above comments. Staff should also incorporate safety fences for swimming pools and spas.

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E. GENERAL DISCUSSION

Commissioner Julin wondered if we could amend the code to limit the number of times a person can come forward with an application.

Commissioner Sias did not feel that an ordinance was needed just for a few isolated cases.

Chairman Mihaly supported Commissioner Julins proposal, stating that most towns have that type of ordinance.

Coffee Rosters, 100 Center Blvd - Ms. Chaney stated that she wan not told that there would be tables and chairs. One approach is to have them come back for an amendment or wait for the six months review period. She asked for guidance from the Commission.

Chairman Mihaly stated that the applicants should be notified that there was misrepresentation at the Planning Commission meeting but not hold a public meeting until the six month period is up.

Commissioner Sias doesn't want to pursue this until there is a formal complaint or the six months period is up, which ever comes first.

The Consensus is to wait for the six months period.

F. OPEN TIME FOR PUBLIC DISCUSSION

G. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

The Proposed Ordinance Amendment regarding Maximum Dwelling Size of Floor Area Ratio (FAR) will be heard at the next Town Council meeting.

Ms. Chaney explained the recent Bald Hill developments. She indicated that the Town has entered into an agreement with Peter Fraser for land swap and development, whereby the Town will gain open space. The Town is also in final discussions regarding the Bald Hill trail issue.

The Housing Element discussion is tentatively scheduled for October 11th. Chairman Mihaly will not not present nor will Sias.

Commissioner Israel will not be present October 4th Planning Commission Meeting.

H. ADJOURNMENT TO THE MEETING OF October 4, 1993

The regular meeting was adjourned at 11:00 p.m. to the next meeting of October 4, 1993.

BARBARA CHAMBERS