

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES OF MARCH 15, 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 were: Planning Director Ann Chaney and Planning Consultant Delvin Washington.

**A. CALL TO ORDER**

Commissioners present: Julin, Sias, Israel, Kroot, Mihaly  
Commissioners absent: Harle, Hayes

**B. CONSENT**

1. **Minutes - March 1, 1993**
2. **V-9310 - Ralph Ardito, 31 Brookside Drive, A/P 5-181-09, 1) a rear yard variance to install a portable spa within 0' of the rear property line where 8' is required, on property located within the R-1 Zoning District.**
3. **V-9314 - John and Barbara Chambers, 10 Brookmont Circle, A/P 5-111-22, a side yard variance to install a portable spa within 3'9" of the street side property line where 12' is required, on property located within the R-1 Zoning District.**

M//s Julin, Israel, to approve Consent Item B.1.

Ayes: Julin, Sias, Israel, Mihaly  
Abstain: Kroot.  
Motion carried.

M/S Kroot, Sias to approve Consent Items B2 and B3. Motion unanimously passed. Audience advised of the ten day appeal period. All ayes.

**C. PUBLIC HEARINGS - CONTINUED TO THE MEETING OF APRIL 5, 1993**

1. **PS-9201 - Tony Richards for Viking Leon, Between Forest Avenue and Vista Lane, south of Lansdale Station Park, A/P Nos. 7-021-07, 7-021-23, and 7-021-24, 1) environmental review; 2) parcel split to legalize the 1954 creation of three separate building sites, each of which is currently undeveloped.**
2. **V-9240/DR-9218 - Tony Richards for Viking Leon, 5 Vista Lane, A/P 7-021-24, 1) design review of a single family dwelling; 2) a 17' frontyard variance to construct a dwelling within 3' of the front property line; 3) a 3' rear yard variance to construct bay windows within 17' of the rear property line; 4) a 20' frontyard variance for driveway retaining walls to be within 0' of the front property line; and 5) a 13' frontyard variance to construct an uncovered deck within 1' of the front property line.**
3. **V-9244 - Lenore Mathews, 72 Foothill, A/P 7-033-12, a front yard variance and a side yard variance to construct a 2 car garage and addition within 3' of the front property line and 0' of the side property line where 20' and 8' respectively are required; and 2) a variance to provide only 2 off-street parking spaces (3 required), on property located within the R-1 Zoning District.**
4. **V-9312/DR-9304 - James Guelff, 11 Vine, A/P 7-273-11, a use permit to legalize a second living unit in an R-1 Zoning district; and a parking variance for the existing on-site parking to remain in tandem and located within the required front and side setbacks, on property located within the R-1 Zoning District (Above 150' mean sea level).**

**D. PUBLIC HEARINGS**

1. **Zoning Ordinance Clarification** - Request for clarification regarding the design review requirement for additions or new construction greater than 500 square feet, when it involves replacement of existing structures.

Ms. Chaney presented the staff report.

Mr. Heineke stated that he spent \$1,500 on plans and thought he could get a building permit but discovered that because he fell within the 500 square foot limit, he was required to go through design review. Therefore he reduced the size of the deck and did not put in the stairs. He felt that: 1.) Staff's interpretation is contrary to the clear meaning of the ordinance. 2.) There is no evidence on the part of the Town Council to have this sort of interpretation. There is no definition of "addition" other than the clear definition of the word, 3.) The way it is interpreted is unfair. 4.) The interpretation does not promote any valid zoning policy. When something is replaced it does not increase the bulk. 5. It is a

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burden on staff and an imposition on the citizens of San Anselmo. His request was just to replace the surface but there was a need to replace the joists and therefore it was practical to replace the deck. He understood that bulk is the main thrust.

Ms. Chaney stated that Mr. Heinecke's situation may seem innocuous but that would not necessarily be the case in the future with other applications.

Commissioner Kroot felt that staff's interpretation was exactly right but felt it should be changed. He felt that 500 square feet should be raised. That during the zoning revision hearings, the discussion ranged from 800 square feet to 1,200 square feet. He stated that several 500 square feet additions have gone on the consent calendar. He also felt that the 150 foot elevation was too low. He felt strongly that it should be new construction, not replacement.

Ms. Chaney stated that if the Commission wants to change the interpretation of the ordinance, it will then go to Council for final discussion and adoption.

Commissioner Julin stated that she agrees with staff's interpretation. Items such as color, design and bulk were what made up the 500 square feet. She stated that she still feels comfortable with replacement and new totaling 500 square feet. She stated that this is her reading of what the community wants.

Commissioner Israel felt that Mr. Heinecke's interpretation of the ordinance could have been made by anyone. He would like to see a clearer definition with regard to in-kind replacement. With regard to size, he would be more comfortable with 800 rather than 500 square feet, however, he does agree with the Town policy to just make it clearer.

Commissioner Sias stated that the ordinance is clearly flawed. He stated that his interpretation of addition would mean new, not replacement. The ordinance should be modified to include replacement in-kind. He was inclined to support Mr. Heinecke's point of view.

Commissioner Kroot stated that if a change takes place in the design or material it would not be considered a replacement in kind.

Chairman Mihaly supported staff's position, but would like to initiate an ordinance change. He stated that he would like to put a motion on the floor to change the ordinance. The intent is that all new dwellings, including replacements to stay at 500 square feet. In cases where an addition is between 500 and 800 square feet and raises no significant change, he would like to see that done as an administrative review.

M/S Mihaly/Sias, to propose a Zoning Ordinance Amendment to reevaluate the design review standards and requested that staff return at a future date with draft language with incorporates the comments of the Commissioners.

Motion unanimously passed.

2. **V-9313/DR-9305 - Michael Whyte, Booksmith, 535-541 San Anselmo Avenue, A/P 7-213-24, 1) A 12 space parking variance to allow two new retail spaces and five office spaces in an existing building which presently has five off-street parking spaces. The total required for this zone is 17; and 2) a design review for exterior changes, on property located within the C-1 Zoning District.**

Mr. Washington presented the staff report.

Commissioner Israel noted that if Creek Parking lot is not being used, then perhaps employees and merchants could be persuaded to park there.

Mr. Whyte stated that he has been in his present location for 13 years. The proposed space is very large and would not be easily rented to one tenant. To be useful it will have to be subdivided. The Rossi building is very deep at 100' and good for offices. Physiotherapists generally see their clients on off hours. He would really like 4 offices and two retailers. He did not think that it would be economic to only have 3 retails. He was working on a plan to save the mural that is in the rear of the store.

Commissioner Israel noted that some of the bathrooms and corridors may need to be changed to meet code, which in fact will probably reduce the offices to 4.

Tom Verkozen, Yolanda, stated that it disturbs him that the building has been vacant for so long. He supports the proposal by the applicant.

Dave Egan, Realtor representing the Rossi family, stated that the typical retail tenant is looking for around 800 - 1,200 square feet and about 500 square feet for office space. The Rossi family was hoping that a local tenant could take over the space and that the Commission would look favorably on this application.

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Ms. Chaney noted that at the parking Committee meeting earlier this evening, an agreement was reached that two parking spots in the Magnolia lot will be set aside during the week for Town staff/volunteers in exchange for three spaces in the Town lot on the week ends.

Commissioner Julin stated that she was delighted at this proposal. She would like to see the applicant get what is necessary to maintain the business at this site with the hope that there be a solution for parking. She suggested that the tenants could park away from the downtown. She would like to see if they could get credit for finding parking off site. If it could accommodate five, with specific off site parking arrangements for tenants, she would go for that.

Mr. Washington stated that the owner has secured a parking spot away from the downtown area.

Chairman Mihaly asked if the Town has ever restricted the parking lots to customers only. Ms. Chambers stated that Living Foods had an arrangement of that sort.

Commissioner Israel stated that he supported activating the retail business in the downtown.. He is somewhat happy about there being a parking problem because that means that business is getting better in San Anselmo. He would like also to see on site parking restricted to the customers, with the tenants parking elsewhere. Perhaps have the tenants use Creek parking lot.

Commissioner Sias said he was excited about the space being filled but was somewhat concerned about five offices and the size of the offices. He would like to see the reduction to 4 offices. He wanted tenants to pay a small fee to have signs made to entice people to the Creek Park parking lot. Also, to leave the tenant parking free for customers and have permit parking for merchants in Creek Park. He felt the Town should collect fees for the posting of signs.

Commissioner Kroot stated that there are other four hour areas that merchants can park all day this is used to entice the merchants to park away from the business area. He supported the project with either 3,4, or 5. He stated that the applicant states that the psychotherapist spaces need to be small and are used mostly at night.

Commissioner Israel stated that it looked like the office space was in the area of 200 square feet.

Mr. Whyte stated that phycotheropists offices are typically about 250 square feet.

Chairman Mihaly stated that he would support four offices, and wanted to see something done about parking. The spaces in the back parking lot should be reserved for the customers and the leases should indicate such and permit parking should be used for the tenants. He was concerned about the parking problem in general relative to the future of the downtown area.

Commissioner Sias wondered if the Commission should work towards a long term solution for the parking and spread the cost out to the tenants.

Commissioner Julin stated that although she did not want to hold up this project she wondered if the parking committee could come up with some solutions.

Ms. Chaney stated that perhaps some of the Planning Commissioners could work with the parking committee.

Commissioner Israel stated that the only thing he is uncomfortable with is the Town's stand on parking. He stated that in some towns or cities the businesses are not permitted to park on site but rather have to pay into an assessment district.

Commissioner Sias noted that all businesses in downtown San Anselmo require parking variances.

M/S Kroot/Julin, to approve V-9313/DR-9305 - Michael Whyte, Booksmith, 535-541 San Anselmo Avenue, A/P 7-213-24, 1) A 12 space parking variance to allow two new retail spaces and five office spaces in an existing building which presently has five off-street parking spaces. The total required for this zone is 17; and 2) a design review for exterior changes, on property located within the C-1 Zoning District. 1. Due to the special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the controlling zoning ordinance or regulations 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. Except for midday there appears to be adequate parking throughout the downtown. During the peak hours, which according to the survey are during the early afternoon, there is parking available most of which is in the creek parking lot. There are a significant number of existing businesses in the downtown area that do not have any off-street parking. If the number of independent offices is reduced from five to three, this will further reduce the parking demands of the facility. The floor area is unusually large for the downtown and if it were not split the building would be extremely difficult to lease. Staff finds it difficult to make the special circumstance finding based on physical characteristic

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of the lot. However, this building and tenant space already exist. The applicant proposes to reoccupy the space and not add to the floor area, although the inclusion of consultation office space may be considered an intensification. 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 introduction of these new uses will compliment the existing commercial activities in the downtown. The occupied spaces will potentially draw more shoppers into the downtown helping neighboring retail establishments. Condition of approval are: 1. The second floor office space shall be used by one of the ground floor tenants any not leased out separately to an independent establishment. 2. The applicant shall submit a sign program and design for a new awning (if desired) to be reviewed and approved by the Director of Planning. 3. All office tenants shall be encouraged to, and shall encourage their clientele to utilize the Creek parking lot, or park away from the downtown area in an all day parking area.

Chairman Mihaly wanted to see the maximum number of rental spaces limited to 4.

With regard to recommendation 2, Mr. Whyte stated that if left at five, he would like the upstairs left open for another tenant.

M/Mahaly, to amend the motion to state: 1) The applicant shall eliminate two of the ground floor offices shown on the plan date stamped February 5, 1993. This will bring the maximum number of independent office spaces on the site to three(3), and retail spaces to two(2). 2) To allow flexibility of office space upstairs or down; and 3) that the on-site parking to be reserved for customers and that parking permits are to be given to tenants to allow them to park all day in a four hour zone.

Motion failed for lack of a second.

Commissioner Israel agreed that on-site parking should be restricted to clients/customers.

The consensus of the Commission was to vote on the required number of office and retail spaces on the site.

M/S Mihaly, Israel, to amend motion to allow a maximum number of independent office spaces on the site to four (4), and retail spaces to two (2). An additional office use shall be allowed in association with one of the retail tenants.

Ayes: Sias, Israel, Mihaly,  
Noes: Kroot, Julin  
Motion carried.

M/S Mihaly/Israel, to delete Recommendation Number 2. and modify Recommendation Number 4 as follows: All office tenants shall be required to obtain merchant parking stickers and utilize the Creek parking lot or parking located away from the downtown in the all-day parking areas in order that on-site spaces are available for customers/clients.

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

3. **V-9315 - Laurent Recollon - 36 Canyon Road, A/P 7-062-09, a variance to construct a 9'6" retaining wall within 4' of the front property line in order to create additional parking located within the R-1 (above 150' mean sea level). (Originated as an Administrative Variance). Also, a portion of the wall will extend beyond the front property line.**

Mr. Washington presented the staff report.

Commissioner Kroot asked why staff is requiring a replacement of five redwood trees. Mr. Washington stated it is a replacement for the five trees that were removed.

Mr. Recollon stated that the retaining wall by the street will be seven feet high. He did not understand why he has to plant five more trees because there are seventeen redwood trees currently on his property. With regard to the additional conditions, he stated that he had no comment. He noted that Mr. Bush wanted him to save the redwood stumps but they are in the vicinity of the of the retaining wall and therefore may not be saved. He stated that he would be willing to plant something else in the vicinity.

Jake Jakel, 24 Canyon, stated that Canyon Road has very little parking. Because of the steep slope on all lots on Canyon, this parking scheme shows as elevated. He is concerned about a precedent being started by allowing this parking configuration. The type of parking proposed may not be workable for ingress and egress. The headlights of cars going out of the parking deck will hit his house, and the noise and fumes could also be a detriment. Mitigations could be made by planting of vegetation to screen. This proposal may also impact another redwood tree. He felt an arborist should be contacted regarding the heritage trees. Some of the trees were not located or accurately specified by the plans. With regard to the height of the wall, he felt it could be reduced to 6', not 8'6" as originally noticed.

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Mr. Washington also noted that a condition should be included that indicates a fence be included between the properties to screen and effectively soften.

Commissioner Kroot suggested that the Commission act on the parking situation now and discuss the retaining wall at a future meeting since the applicant stated that he was not going to build the retaining wall this year. He stated that when the wall is discussed he would like to see an engineer cross section and elevation.

Ms. Chaney stated that she was not as enamored with this parking solution but it does bring the cars off the right-of-way.

Commissioner Kroot stated that the advantage of this proposal is that the retaining walls will not be massive.

Commissioner Julin asked about the remaining tree stumps. Mr. Recollon stated that the stumps are still moving down the hillside.

Commissioner Israel felt that this plan was much better than the project approved for 20 Canyon Road. He thought there were restrictions on grading during the winter and that there should be a winterization plan in place. He was amazed at how major cuts could be made so close to major trees. He suggested that 8 feet should be maintained for the side yard setback to protect the neighbor from the headlights. He was not sure about the five redwood trees, but would like to suggest that there be some trees replanted, with input from the neighbor and final decision by the Planning Director. He was concerned about the retaining wall right on the street and was not sure that the planting could screen the retaining wall.

Commissioner Sias supported the request of the applicant with the conditions as proposed by staff although he shared Commissioner Israel's concerns.

Commissioner Kroot also shared Commissioner Israel's concerns. With regard to the retaining wall, he would like to see drawings by the engineer from the street, and an elevation and cross section. The applicant might also consider the possibility of moving the wall closer to the street. With regard to the redwood trees, he stated that redwood trees grow very tall and become tippy and therefore are not good for an urban settings. There might be a need to plant something else to hold the hillside.

Commissioner Julin stated that if the redwood trees need to be replaced perhaps an arborist should be consulted for the most appropriate trees for this site. She agreed to add a condition about adding a fence between the properties for shielding light.

Chairman Mihaly agreed to the 8 foot side yard setback to allow for planting

Commissioner Israel did not think a fence would be as aesthetically pleasing as planting or berm. He would also like to see immediate winterization of the site.

M/S Sias/Kroot, to approve V-9315 - Laurent Recollon - 36 Canyon Road, A/P 7-062-09, a variance to construct a 9'6" retaining wall within 4' of the front property line in order to create additional parking located within the R-1 (above 150' mean sea level). (Originated as an Administrative Variance). Also, a portion of the wall will extend beyond the front property line.

1. Due to the special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the controlling zoning ordinance or regulations 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 property has a severe up-slope and it is infeasible to develop off-street parking that can conform with all of the existing established setbacks in this area. All of the neighboring properties that have off-street parking have it located within the front setback. Thus, based on lot topography, staff is able to make the special circumstance findings. 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 would allow additional off-street parking for this residence. This will take additional vehicles off the street and allow for better access for emergency vehicles. The additional mitigations and conditions will reduce the impacts this project may have on the adjacent neighbor. Therefore, the granting of this variance will not result in any detrimental impact on the neighborhood but should work to create a safer, more accessible area. **Conditions of approval:** 1. That applicant shall obtain all necessary development permits and conform with all adopted standards of the Building and Public Works Department. 2. The parking stall identified as stall No. 1 on the plan shall be moved back three (3) additional feet from the side property line (a total of 8 feet). 3. The applicant shall back fill the area between parking stall No. 2 and the edge of pavement at Canyon Road. This area shall then be planted with additional landscaping. 4. The applicant shall submit a final landscape plan to be reviewed and approved by the Planning Director. This plan shall include, but not be limited to, planting schemes

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for the areas between the parking stalls and the front and side property lines, and the top of the retaining wall. 5. All other aspects of the project shall conform with the Plan date stamped received by the Town of San Anselmo on March 8, 1993. However, the retaining wall along Canyon Road, located in front of the house, is not part of this approval (see condition 12). 6. Abide by all conditions of letter dated March 3, 1993 sent by the Director of Public Works, specifically; a) Soils Engineer's sign off on design modifications being proposed, especially given the recent earth movement. Abide by recommended changes to design for site stability purposes. b) Address the need for a retaining wall between the lower parking stall and the street. c) Submit design details for foundation stabilization, and address any comments/concerns by the Town's structural engineer. 7. Redwood tree stumps are to remain is feasible and be aggressively maintained for re-growth. Install retaining walls if necessary to prevent further stability problems in vicinity of root structure, rather than remove stumps. 8. Replant a least 3 new trees to be selected by an arborist, minimum size 24" box. 9. That is 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. 10. Construct a bulkhead or solid fence parallel to the east property line, in front of parking stalls one and two. The height for these two features shall be at least four (4) feet, in order to screen the neighboring property (24 Canyon Road) from vehicular headlights. 11. Provide a winterization plan for the site. 12. The portion of the retaining wall to be located within the public right-of-way has been continued to a later meeting and is not part of this approval. The applicant shall submit additional plans of this element showing a cross section and elevation drawing of this proposed retaining wall.

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

Chairman Mihaly stated that the hearing tonight was a reconsideration of the whole project and therefore the 8' sideyard is now required. Mr. Recollon stated that a slab has already been poured. Mr. Jakel stated that perhaps he and Mr. Recollon can go to the site and perhaps modify this plan.

**E. GENERAL DISCUSSION**

M/S Mihaly/ Sias to appoint Commissioner's Julin and Israel to the Library committee.

Ms. Chaney asked the Commission if they had any objection to removing 10 seats indoors and relocating them outdoors for the Restaurant at 706 San Anselmo Avenue. She stated that it can be granted administratively but wanted to get comments from the Commission. The consensus of the Commission was support for proposal.

**F. OPEN TIME FOR PUBLIC DISCUSSION**

There was none.

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

Ms. Chaney gave a report of the town Council discussion on 41 Hillcrest Court.

**I. ADJOURNMENT**

The regular meeting of the San Anselmo Planning Commission was adjourned at 12:00 a.m. to the next meeting of April 5, 1993.

BARBARA CHAMBERS  
SR. ADMINISTRATIVE SERVICES ASSISTANT