

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF FEBRUARY 16, 1993**

The special meeting of the San Anselmo Planning Commission was convened at 8:00 p.m. by Commissioner Hayes. Staff present was Planning Director Ann Chaney and Planning Consultant Delvin Washington.

A. CALL TO ORDER

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

C. CONSENT

1. Minutes - February 1, 1993

Ms. Chaney asked that Items No D2 and D3 be placed on the consent agenda if no one in the audience or the Commission had an objection. Members of the audience were present to speak on D3 but there was no objection to keeping D2 on the Consent Agenda.

Minutes:

M/S Julin, Israel, to approve Minutes of February 1, 1993.

Ayes: Julin, Israel

Abstain: Kroot, Hayes

Motion carried.

M/S Israel/Kroot, to approve Item D2. V-9306 - Greg Phillips, 80 Melville, A/P 7-263-15, variance to allow a spa (after-the-fact) to be located 2'7" from the side property line where 8' is required on property located within the R-1 Zoning District.

1. Due to special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the controlling zoning ordinance or regulation deprives such property of privileges enjoyed by other property in the vicinity and under an identical zoning classification, and the granting of a variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. The lot is 45' wide which is slightly narrower than most of the properties in this neighborhood which are typically 50 feet wide or wider. 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. Given the presence of a fence, which separates the spa from the adjoining house, and the fact that the neighbors or's windows are located off the ground at nearly a second story level, staff is able to make the "non-detriment" finding.

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

D. PUBLIC HEARINGS - CONTINUED

- 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. **CONTINUED TO THE MEETING OF MARCH 1, 1993****
- 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. **CONTINUED TO THE MEETING OF MARCH 1, 1993****
- 3. V-9243 - Harry J. LeVine, 405 Scenic Avenue, A/P 7-032-02, 1) a parking variance for the property to remain without on-site parking; 2) a 5' rear yard variance to reconstruct an uncovered deck within 9' of the rear property line; and 3) a 8'4" front yard variance to reconstruct an uncovered deck within 5'8" of the front property line, on property located within the R-1 Zoning District. **CONTINUED TO THE MEETING OF MARCH 1, 1993****
- 4. V-9244 - Lenore Mathews, 72 Foothill, A/P 7-033-12, a 17' front yard variance and an 8' side yard variance for an addition and a 2 car garage,**

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within 3' of the front property line and 0' of the side property, and to provide only 2 off-street parking spaces (3 required) on property located within the R-1 Zoning District. CONTINUED TO THE MEETING OF MARCH 1, 1993

5. **DR-9301/V-9302 - James Cressa, 566 Scenic Avenue, A/P 7-061-23, a 1) design review request to construct a 475 square foot second story addition (after-the-fact) and a 250 square foot deck to an existing 1,200 square foot residence; and 2) parking variance to allow two substandard size parking spaces (12' x 20') which encroach into the right-of-way, where three spaces are required, on property located within the R-1 Zoning District (above 150' mean sea level elevation). CONTINUED TO THE MEETING OF MARCH 1, 1993**
6. **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. CONTINUED TO THE MEETING OF MARCH 15, 1993**

E. PUBLIC HEARINGS

Taken out of order.

3. **V-9307 - James Reilly, 53 Grove Lane, A/P 7-162-27, variance to maintain an existing deck that is 3'8" from the side property line, where 6 feet is required, on property located within the R-1 Zoning District.**

The applicant was present.

Mr. Washington presented the staff report.

Mr. Reilly, the former owner, did not realize that there were setback requirements for this small portion of the deck. He also did not think that they were that noisy and a disturbance to their neighbors. He did not think this small portion would have an impact on the neighbors.

Mr. Roger Machson, 59 Grove Lane, stated that the deck was built shortly after they moved in two years ago. He did not think that consideration should be given because the deck is already there illegally. He said the Reillys used the deck every weekend and the noise created a negative impact on his life.

Mrs. Joan Trombley, 59 Grove Lane, thought the Reilly's were aware that the setbacks were encroached on when they built their deck.

Irene Wise, a friend, stated that this deck was built without realizing that variances were needed. She did not think the difference of twelve square feet was going to make that much of an impact on the neighbors at 59 Grove Lane.

Betty Reilly stated that the variance portion of the deck is not near their neighbors deck.

Commissioner Kroot felt the deck portion is de minimis and no more than 12 square feet and relatively low to the ground. Cutting it back would not make any sound separation. He suggested a good hedge between the two properties that would baffle noise.

Commissioner Julin supported the proposal. because she felt at reducing the width of the deck would not create any impacts on the neighbor. She considered this a minor intrusion.

Commissioner Israel concurred with the other Commissioners. He would have preferred plans that were to scale and that clearly indicated the proposal so he could better evaluate the project. He agreed that it would be a good idea to ask that a hedge be planted.

Commissioner Hayes concurred with his colleagues noting that the applicants applied for, and received approval for a deck in 1984. This small portion was just a small encroachment into the setbacks. Therefore, he felt the applicants were coming forward in good faith. He felt that the good neighbor issue should be used in the future.

Mr. Machson stated that he thought the variance was to expand the existing deck, as well as to make legal what is existing and that is the reason he has come forward.

Commissioner Julin did not feel justified in asking that the applicant plant the hedge.

Commissioner Kroot wanted to leave the hedge as a suggestion to the new owners and the neighbors.

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Commissioner Julin noted that the hedge, if planted, should not exceed 6 feet as per our ordinance.

M/S Kroot, Julin, to approve V-9307 - James Reilly, 53 Grove Lane, A/P 7-162-27, variance to maintain an existing deck that is 3'8" from the side property line, where 6 feet is required, on property located within the R-1 Zoning District. *1. Due to special circumstances applicable to the property, including size, shape, topography location, or surroundings, the strict application of the controlling zoning ordinance or regulation deprives such property of privileges enjoyed by other property in the vicinity under 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 parcel has an unusual and unique angle in the rear corner which limits the potential developable area on that side of the property. The amount of deck which encroaches into the setback appears to be minimal. *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. Requiring the applicant to reduce the setback will cause a hardship and will not alleviate the issues raised in the letter sent by the neighbor.* The amount of space appears to be inconsequential and if the floor area is eliminated it will not reduce noise or privacy impacts. The deck as constructed will have no less of an impact on the neighboring property whether an additional 12 square feet are eliminated.

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

1. **U-9301 - Bill Johnson, 100 Chipman Place, A/P 7-271-21**, a request to re-establish a second unit on property that was recently approved for a single family residence. The second unit will be located in an existing accessory structure. This property is located within the R-1C Zoning District.

The applicant was present.

Mr. Washington presented the staff report.

Commissioner Julin stated that there was a condition placed on Mr. Posthuma's approval that there be no second unit on his property. Therefore she felt that she could not consider a second unit on Posthuma's property.

Ms. Chaney stated that by placing the condition on Mr. Posthuma does not preclude him from reapplying.

Commissioner Kroot wondered if he was interested in a second unit. Ms. Chaney affirmed.

Commissioner Israel stated that there may not be a option except to deny this project because of the finding that the second unit cannot be approved.

Mr. Johnson felt that there has been a legal second unit on his property for years. He felt that some second units are more suited than others and perhaps more than one application can be heard at the same time.

Mark Kertz, attorney for Meranda Leonard at 395 Oak Avenue, stated that in 1987 Mr. Posthuma applied for the second unit but could not understand how the list could have evaporated. With regard to Mr. Posthuma's proposal for a second unit, Mr. Posthuma stated that he would waive his right for a second unit at the time of his design review for his addition.

Ms. Chaney noted that people on the waiting list do not pay a fee. In Posthuma's case, staff thought incorrectly that a second unit was available.

Commissioner Julin stated that it would be appropriate to establish the use at 100 Chipman. With regard to the missing list, there may be other people on the list in this tract in addition to Mr. Posthuma. There may also be other people ahead of Mr. Posthuma. She felt it was a community wide issue with regard to the missing second unit list and that a formal set of procedures should be put in place. She suggested that the formal procedures should be adopted by the Town Council.

Commissioner Israel stated that Mr. Johnson's property is an excellent location for a second unit but he felt that there was no choice but to let Mr. Posthuma go forward and be heard.

Commissioner Kroot felt that he could support the second unit for 100 Chipman however if there is anyone else ahead of Mr. Johnson then they should be allowed to apply. However, Mr. Posthuma should already be aware of how the Commission and Council feel about a second unit at this site. He agreed that there should be a limit placed on the amount of time Mr. Posthuma has to apply. Equally, Mr. Johnson should be placed in line after Mr. Posthuma. With regard to the procedures for second units, he felt that staff should be able to handle this.

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Commissioner Hayes, support the Town policy on the first come, first serve basis. He agreed that the waiting list should have periodically renewed, perhaps every five years. He felt it was clear that Mr. Posthuma is next on the list and should be allowed a chance to apply. He also agreed that there should be a time limit for him to apply. He noted that he did not think Mr. Posthuma's application would be met with a lot of favor.

Mr. Johnson stated that he would formally like to be put on the waiting list for the next available second unit in the Rosenthal Tract.

Commissioner Hayes suggested that a public hearing be held to establish the procedures for the second unit applications. He also suggested placing it in the newspaper.

Ms. Chaney stated that staff would be happy to prepare a staff report as to the procedures and place it on the agenda within the next month.

M/S Israel/Kroot to deny without prejudice U-9301 - Bill Johnson, 100 Chipman Place, A/P 7-271-21, a request to re-establish a second unit on property that was recently approved for a single family residence. The second unit will be located in an existing accessory structure. This property is located within the R-1C Zoning District. The Commission also directs staff to refund Mr. Johnson's money for the application.

Ayes: Kroot, Hayes, Israel, Julin
Motion unanimously passed. Audience advised of the ten day appeal period.

Commissioner Julin stated that her vote was based on the fact that the list was missing and it did not mean Mr. Posthuma was next in line. She stated that she strongly feels that a set of procedures should be in place prior to anyone else applying for a second unit.

Ms. Chaney stated that although the motion did not state Mr. Posthuma was next in line for the second unit application, it was staff's opinion based on the testimony that Mr. Posthuma would be next in line and allowed to apply for the last available second unit in the Rosenthal Tract.

Commissioner's Kroot, Israel and Hayes concurred with Ms. Chaney.

M/S Kroot/Israel, determined that Mr. Posthuma, 379 Oak Avenue, is first in line in Rosenthal Tract to apply for a use permit for the last available second unit if he desires to make application

Noes: Julin
Ayes: Hayes, Kroot, Israel
Motion carried.

There was a discussion as to the time frame for Mr. Posthuma to apply for the second unit.

Ms. Chaney stated that she thought three weeks was reasonable because Mr. Posthuma already has his working drawings in the Building Department but should be open to suggestions from the Commission.

Commissioner Kroot said that three weeks was fine but 1 month was also fine.

Commissioner Julin did not support this.

Commissioner Hayes supported staff discretion, but asked that a short, but reasonable time be allowed.

4. **V-9308 - Ann Brunner and Gary Sangervasi, 84 Scenic, A/P 7-054-16**, a variance request in order to construct a two story addition that will be located 5' from the side property line where 8' is required, and 10' from the rear property line where 20' is required; and maintain two off-street parking spaces within the front and side setbacks, on property located within the R-1 Zoning District.

The applicants were present.

Mr. Washington presented the staff report.

Commissioner Julin asked if the neighbors were tenants or owners. Mr. Washington stated that one was a tenant but the owner was also notified and had no objection. Mr. Washington sketched out the plan that staff recommended. He noted that this would probably mean a new foundation and new roof.

Mr. Sangervasi stated that the house can't be moved because the bedroom and living would be eliminated and they would not be allowed the living space they require. His intent is to use the

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existing space and add on to it. If he expands to the front the frontyard would be destroyed.

Ann Brunner, stated the neighbor to the west is very close, her bedroom window is approx 4 feet to the property line and if they built forward it will intrude in her privacy. The neighbor on the north stated that the addition sounded reasonable. The addition will still be lower than their neighbors roof line. She said they have tried to be sensitive to the neighbors and feel their plan is the best for them and their neighbors. She stated that they did not want to build a structure blocking the house at 86 Scenic.

Commissioner Israel stated that there may be other ways to expand but they may still need variances. If the addition was expanded to the rear, the area would be shaded and less habitable. He felt there was a wonderful quality of having small cottages in San Anselmo. If this were a design review application he would ask that the vertical mass be softened but said he understand the construction reasons for it.

Commissioner Kroot thought that there were benefits of this design because it protected the front yard. He was opposed to staff's recommendation because it would block the light and view to the west side neighbor and the applicants would ultimately have demolish the existing house and start over. The lot is very small and he was sympathetic to the need to live in their house while adding on. He was not really happy with scheme but it could be a good solutions the neighbors support the project, and it is the least detriment to the neighbor to the west.

Commissioner Julin stated that the current house is very small and on a very small lot. The height of the addition is setback to the rear. If placed in front it could destroy the street scape and create too much of a mass. therefore he preferred the solution that the applicants proposed.

Commissioner Hayes supported the application for the reasons stated by his colleagues. The neighbors to north have a large space on southern boundary of property so the separation between houses is adequate. If addition were built elsewhere on the lot it would create a shadow affect on neighbors; if moved forward, the front yard would be lost and the addition would look more massive. He felt the size of structure and size of lot are special circumstances. He concurred with staff recommendations to move the fence.

M/S Kroot/Julin, to approve V-9308 - Ann Brunner and Gary Sangervasi, 84 Scenic, A/P 7-054-16, a variance request in order to construct a two story addition that will be located 5' from the side property line where 8' is required, and 10' from the rear property line where 20' is required; and maintain two off-street parking spaces within the front and side setbacks, on property located within the R-1 Zoning District. . *1. Due to special circumstances applicable to the property, including size, shape, topography location, or surroundings, the strict application of the controlling zoning ordinance or regulation deprives such property of privileges enjoyed by other property in the vicinity under 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 is best location for the addition as shown on plans submitted. The position of the addition will not block the view and light of neighbors there will not be a loss of usable front yard, and the mass of the new addition will have the least impact because it will be held back from street. *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. Requiring the applicant to reduce the setback will cause a hardship and will not alleviate the issues raised in the letter sent by the neighbor.* There has been no testimony that this addition will be a detriment to the neighborhood and in fact all neighbors seem to be in support. Conditions of approval are: 1. That the plan be constructed in accordance to the plans date stamped received by the Town of San Anselmo on November 19, 1992. 2. The front fence shall be relocated in order to accommodate at least two off-street parking stalls with a total dimension of at least 19 feet in length and 18 feet in width.

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

F. GENERAL DISCUSSION

Ms. Chaney stated that 118 San Francisco Blvd. was previously approved with no street trees to be removed. During the permit process, the tree permit was granted in error to the applicant. She stated that the Commission has the option of asking the applicant to come forward with an amendment or direct staff as to another course of action. Commissioner Julin would like to see additional trees planted. Commissioner Kroot would like to see new trees planted and planted farther away from the driveway. Commissioner Hayes would feel comfortable having staff make a decision as to the type and size of tree, but with a root guard placed around the trees and irrigation system. He would also like to see the mouth of the driveway widened.

Ms. Chaney noted that the Bald Hill meeting is scheduled for March 4, 1993.

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G. OPEN TIME FOR PUBLIC DISCUSSION

There was none.

H. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

41 Hillcrest Court is scheduled to be heard on February 23, 1993.

I. ADJOURNMENT TO THE MEETING OF March 1, 1993

The special Planning Commission Meeting was adjourned at 10:50 p.m. to the next regular scheduled meeting on March 1, 1993.

BARBARA CHAMBERS