

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES FOR NOVEMBER 1, 1993**

The regular Planning Commission meeting was convened at 8:00 p.m. by Vice Chairman Harle in the Council Chamber. Staff present was: Planning Director Ann Chaney, Associate Planner Lisa Wight, and Planning Consultant Delvin Washington.

A. CALL TO ORDER

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

B. CONSENT - October 4, 1993 and October 18, 1993 minutes

M/S Julin, Hayes to approve the consent agenda.

C. CONTINUED PUBLIC HEARINGS

1. **DR-9314 - Andrea Moyer of 43 Tomahawk Drive, A/P 177-250-60, a design review request to paint the exterior of the house with an alternative color that does not conform 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 DECEMBER 6, 1993.****
2. **V-9328/DR-9320 - Edmund Coyne, 25 Canyon Road, A/P 7-064-14, 1) a design review, and 2) a Variance to construct a new single family residence 11' from the front property line (20' required), and 4' from the west side property line (8' required), with 3 parking stalls located within the front and east side yard setbacks, and to remove one (1) Redwood tree having a trunk 24" in diameter, on property located within the R-1 Zoning District (above 150' mean sea level). **CONTINUED TO THE MEETING OF DECEMBER 6, 1993.****

D. PUBLIC HEARINGS

1. **V-9332 - Patrick Maffei, 52 Barber Avenue, A/P 6-191-29, 1) a request to construct a two story addition that will be 9'0" from the rear property line (20' is required) on property located within the R-1 Zoning District.**

The Applicant was present.

Mr. Washington presented the staff report.

Mr. Maffei stated that the owners of the house to the rear are in support of his project and presented a letter to that affect. He also said that there are five redwood trees on the lot that he wished to retain, which aids in screening and limits the placement of the addition.

Commissioner Sias stated that when he visited the site Mr. Maffei stated that he wanted to modify the windows facing north so that the neighbor to the north will not lose their privacy. Commissioner Sias thought that should become a mitigation if the project was approved.

Commissioner Sias stated he would support the applicant because of the configuration of the house on the lot and the applicant would have to undertake a missive redesign of the current house with no appreciable gain to the neighborhood. There does not seem to be a privacy issue with the current neighbors and the vaulted ceiling is worth preserving. There should be a provision placed on the applicant on high windows facing the neighbors.

Commissioner Hayes agreed with Commissioner Sias analysis because of the tight placement of the house on the lot.

Commissioner Julin stated that this was a de minimis addition.

Commissioner Kroot concurred that the application is very nice for the very reasons stated by his colleagues.

Commisisoner Harle did not want to see the ceiling of the living room changes because it is the show place of the house; he did not see how this addition would create a negative impact on the neighborhood.

M/S Sias/Julin to approve V-9332 - Patrick Maffei, 52 Barber Avenue, A/P 6-191-29, 1) a request to construct a two story addition that will be 9'0" from the rear property line (20' is required) on property located within the R-1 Zoning District. Approval is based on the following:
1. Special circumstances applicable to the property, including size, shape, topography, location, or surroundings, to show why the variance should be granted; and the granting of the variance will not be a granting of special privileges inconsistent with the limitations upon other properties

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in the vicinity and zone; the configuration of house on lot, and the current floor plan with the vaulted ceiling in the living room would dictate a massive reconstruction to no real benefit of neighborhood given the privacy and the heavy vegetation. 2. *The variance will not materially affect adversely the health or safety of persons residing or working in the neighborhood or be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood;* The existing landscape will shield houses from the addition, and therefore will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. This approval is based on the conditions that 1. The current plan be modified so that high windows are used on the north elevation to protect the house to the north; 2. That a gate and barrier be placed around the hot tub. 3. Approval is based on the plans dated October 29, 1993.

All ayes. Motion unanimously passed. The audience was advised of the ten day appeal period.

2. **Appeal of Planning Director's administrative decision - John and Emily Pears, 39 Belle Avenue, A/P 7-302-04.** The administrative decision made by the Planning Director was that the development project constitutes construction of a new single family dwelling rather than a remodel. (Note: Construction triggers the need to adhere to current parking standards.)

The applicants were present as well as their Contractor, Richard Hughes, and their Engineer, Jerry Lloyd.

Ms. Wight presented the staff report. She also presented photographs of the site.

Commissioner Sias questioned the words "50% of value" as stated in the Code. He questioned the reconstruction of the building - does staff view 50% in terms of square footage or number of walls being removed/replaced. Ms. Chaney stated that it typically is square footage. Also, with regards to value, the term usually applies if a house burns down. Staff was looking at this project from a square footage standpoint.

Ms. Chaney stated that she had a conversation with the contractor at the counter, asking him to indicate the number of walls that were to be removed. He outlined that on the plans. She also stated to the contractor that if more than 50% of the structure will be removed they would need to apply for a parking variance. Ms. Chaney noted that there was some judgement call on the part of the Planning Director. Her reasoning was that because this property is being completely renovated, this would be the opportunity for the house to come into compliance.

Commissioner Kroot asked to look at the exterior elevations. Ms. Wight presented the proposed elevations.

Commissioner Julin asked if the house has been raised to conform to the flood plan. Mr. Hughes affirmed.

Mr. Jerry Lloyd expressed the applicants desire to appeal the Planning Director's decision. He stated that it seems like virtually new construction although it was approved as a remodel. The walls which were shown as existing had no headers, and were not continuous to the second floor joists. They did know that until they started the project. They looked under the structure and found that the foundation needed to be replaced however. The parking poses an unexpected expense as well as the fact it will take away from the outdoor living space. If this was viewed as new construction in the beginning they would have reconfigured the project. Now that the foundation has been poured, it would be a hardship on his clients to make them put in parking.

Rich Hughes stated that he felt a sense of responsibility although he did not draw up the plans. He said that the dark lines on the plans noted new construction however, most all the walls were defined to be removed from the beginning. The dotted lines also indicate new walls, and the legend showed that. He stated that from the beginning the project was going to be more than 50% just to remove the walls, replace the foundation pour new footings and a new roof. They tried to retain as much of the house as possible to keep this as a remodel, not new construction. Over \$10,000 was spent on rebuilding the foundation. It seems to be unfair at this stage to ask the owners to now comply with parking when they acted in good faith.

Emily Pears stated that they also have been confused as to what constitutes new construction. If nothing more comes out of this, she would hope that the Planning Department could come up with better guidelines for future applicants.

Mr. Pears stated that the house will fit in with the neighborhood. They would like to retain their backyard for outdoor living; every other house in the neighborhood has tandem parking.

Mr. Hughes stated that if this was viewed as new construction at the beginning, they would have looked at this project differently. The remaining walls had dry rot and was termite infested.

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There was no structural way to keep the walls. Mr. Hughes stated that he thought that because they saved the floor, that would not constitute a complete a demolition.

Commissioner Hayes asked whose responsibility it was to adhere to the Code. Chaney stated that applicants are informed as soon as possible to let them know. She stated that Ms. Wight's June 2nd letter indicated that staff alerted the applicants about the 50%. Therefore, the Peairs were informed about the parking requirement. Mr. Peairs stated that he never got a copy of that letter.

Commissioner Julin asked how high the floor was raised. Mr. Hughes stated the floor was raised by about 24".

Mr. Lloyd stated that the applicants have had difficulty with their neighbors and therefore did not want to go for a variance. Also, there is a letter from four of the neighbors that have raised irrelevant issues. He hoped that would not be part of the discussion.

Mr. Dennis Runyan, 45 Belle Avenue, stated in a letter to the Commission that he and his neighbors do not support the project. The project seems to be a moving target and is certainly more than a major remodel. The house has been demolished and a new house is being built. What bothers the neighbors is that they all should have been informed and there should have been a public hearing to begin with. They feel that is the reason this development has been done in stages. There could be mitigations placed on the parking variance such as landscaping if this was brought up at a public hearing. The applicants seem to suggest that it is staff's responsibility, in fact it is the responsibility of the architect and the owner. Regarding a limited budget, they have enough money to tear the entire house down, and rebuild. San Francisco Code which is adopted from the Uniform Building Code, states that 50% of the building, not the value. The point is that the entire structure was torn down, 100%, not 50%. Regarding the lack of headers and studs, that determination could have been done before the house was raised and the foundation replaced. They were notified by staff what their options were. The contractor stated that much of the building is new construction and that was always the intent. In summary, he and his neighbors feel that the applicants must comply with adequate parking since the house has been demolished and is in the process of being rebuilt.

Mr. Scagiliola, 37 Belle, is concerned mainly about the parking. The parking pad will have to be raised and he was concerned about the runoff. There is no provision for the water to go anywhere. He requested that parking be required. Also, if parking is in the rear, it would be easier and safer for exiting the driveway. Therefore, he felt the Peairs should comply. He stated that there is room in the backyard for two cars.

Mr. Hughes stated that although the house was raised two feet, the area was sloped and he is making provisions to take all down spouts and the overflow from the sump pumps, to be taken away from the house and diverted to the street to eliminate further runoff to the neighbor at 37 Belle.

Emily Peairs, stated that with regard to the options of remodel versus new construction, they did ask for bids of remodel versus new construction but they did not want to go for a public hearing so they opted for a remodel. She did not understand why the neighbors were concerned about the tandem parking, their neighbors have the same parking configuration

Commissioner Hayes stated that as long as they comply with the zoning regulations, they can rebuild their house without a public hearing. The issue before the Commission is whether or not parking is required. He stated that he was persuaded by the photographs that the house has been substantially changed, in that more than 50% has been removed. Therefore, there should be the requirement of adequate parking. However, he can understand and sympathize with the applicants. It seems that there has also been some evidence that the applicants have tried to do the right thing; but it also seems that there has been some communication with the applicants about the Code requirements. It looks like the red flag went up to the applicants prior to the demolition. He therefore would denial the appeal.

Commission Julin supported staff's recommendation to require that adequate parking be required.

Commissioner Kroot concurred with his colleagues. If this house came before them in the beginning, there would be no reason not to require adequate parking.

Commissioner Sias also upheld the staff recommendation. He appreciated the expense to the applicant trying to maintain as much of the house as possible but he would agree that more than 50% of the building has been replaced even though it was not your intention in the beginning. Staff was very clear in their June 2, 1993 letter to the applicants that adequate parking would be required if the house was demolished.

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Commissioner Harle concurred with his colleagues. It was unfortunate that this was done piece meal but the fact is that more than 50 of the house was removed.

M/S Sias/Julin, to deny the Appeal of Planning Director's administrative decision - John and Emily Peairs, 39 Belle Avenue, A/P 7-302-04. The administrative decision made by the Planning Director was that the development project constitutes construction of a new single family dwelling rather than a remodel. (Note: Construction triggers the need to adhere to current parking standards.)

All ayes. Motion denied.

A person from the audience asked if the fees could be shared with the Town if the applicants wished to apply for a variance. Ms. Chaney stated that the only body that could waive the fees is the Town Council.

50 minutes for transcribing minutes. (8:00 a.m. to 8:50 a.m.)

3. **Appeal of Planning Director's administrative decision - Fred Zentgraf, 55 Durham Road, A/P 5-205-01.** The administrative decision was to deny an Administrative Variance request to construct an eight (8) foot tall fence along 23 feet of the front property line. Six (6) feet is permitted by right except where it obstructs views for line of sight visibility within the R-1 Zoning District.

The applicants were present.

Ms. Chaney presented the staff report.

Commissioner Julin stated that the sketch in the staff report indicates that the fence would be at the street but when she went to the site it looked as though the fence would be quite a ways back from the street if it was going to be constructed perpendicular to the side yard fence.

Ms. Chaney stated that to determine the right-of-way staff would have to measure the exact width of the street.

Commissioner Sias asked if the height of the fence was 7' or 8'. Staff stated the variance application indicated 8' but the letter from the applicant stated 7'.

Mr. Zentgraf said that initially there was a 8' fence in the front yard. The only flat land is in the front of his property. He is having raised beds put in to plant his roses. He concurred with Commissioner Julin that the front fence will connect with the side fence. He felt that he is caught up in something he does not understand and that this fence is only a replacement of the fence that was torn down when he remodeled his house. Mr. Zentgraf showed the location of the fence from the photograph.

Commissioner Harle wondered if the applicant would be interested in an 8' transparent fence.

Commissioner Sias was wondering about building a 6' fence and then if necessary, adding a 2' trellis if it does not keep the deer out.

Commissioner Kroot would like to support this because the fence will be held back well from the edge of the paving, possibly 20'. It will not create a wall on the street, and is only replacing an existing fence, and a very minor infraction of the fence rule for a greater good for the applicant to enjoy his rose garden.

Commissioner Sias was concerned about the material of wire and bamboo that the applicant wants to use. If a 6' fence is adequate to keep deer out, why allow a variance. He would allow the 6' fence and if it did not work, grant an allowance in the future of a 2' open trellis.

Commissioner Hayes suggested that there be an open frame for the last two feet that will keep the deer out and yet be open.

Commissioner Julin felt that the Code might be a little too stringent in this case but will support the Planning Director

Commissioner Harle stated that the purpose of the Town's objection for an opaque fence is that it tends to create a wall and screen off the open space, and gives a closed in appearance which is not good planning for the Town. In this case it appears the applicant is interested in making it deer safe and not keeping out the public. Therefore, he would like to allow an 8' fence with a transparent material that would be unobtrusive but would keep out the deer. Also, with the understanding that the transparent part will not be covered with vines or plants.

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The applicant stated that the bamboo will deteriorate in a few years and the wire between the bamboo will be covered in time with the vines that he is planting. However, he liked the idea of allowing an opening from 6' to 8'.

Commissioner Sias stated that he would like to take into consideration a different type of fences to allow people an opportunity to use their front yard space and still allow protection from deer.

M/S Sias/Kroot, approve the Appeal of Planning Director's administrative decision - Fred Zentgraf, 55 Durham Road, A/P 5-205-01, . The administrative decision was to deny an Administrative Variance request to construct an eight (8) foot tall fence along 23 feet of the front property line. Six (6) feet is permitted by right except where it obstructs views for line of sight visibility within the R-1 Zoning District. *1. Special circumstances applicable to the property, including size, shape, topography, location, or surroundings, to show why the variance should be granted; and the granting of the variance will not be a granting of special privileges inconsistent with the limitations upon other properties in the vicinity and zone;* Special circumstances are that there was an 8' fence on this property for the last 15 years so it is only a reconstruction. *2. The variance will not materially affect adversely the health or safety of persons residing or working in the neighborhood or be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood;* the 8' fence was used to protect the front yard to grow roses and was removed only for a remodel. This fence will not cause harm to the surrounding neighbors because there was an 8' fence in the same spot for 15 years and none of the neighbors have objected to it. **This approval is based on the following condition: 1. The fence is to be of open construction, not opaque, so that it will not wall in the street, and the design is to be submitted to the Planning Director for approval.**

Ayes: Sias, Kroot, Harle, Hayes

No: Julin

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

E. GENERAL DISCUSSION

There was none.

F. OPEN TIME FOR PUBLIC DISCUSSION

There was no public discussion.

G. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

There was no discussion.

H. ADJOURNMENT TO THE MEETING OF November 15, 1993

The regular meeting of the San Anselmo Planning Commission was adjourned at 10:45 to the next meeting of November 15, 1993.


BARBARA CHAMBERS