

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF APRIL 19, 1993**

The regular meeting of the Planning Commission meeting was convened at 8:10 p.m. in the Council Chamber by Chairman Mihaly. Staff present: Planning Director Ann Chaney, and Planner Lisa Wight.

A. CALL TO ORDER

Commissioner's present: Harle, Hayes, Sias, Julin, Kroot, Mihaly
Commissioner absent: Israel

B. CONSENT

1. **Minutes - March 15, 1993 - Continued to 5/4/93**
2. **DR-9407 - Phillip Heineke, 97 Spring Grove Avenue, A/P 6-212-42, design review to construct approximately 50 square feet of stairs (11'6" x 4'3") onto a previously approved deck which together exceed 500 square feet, on property located within the R-1 Zoning District (above 150' mean sea level).**

M/S Sias/Julin, approve B2 with the following conditions: 1. That the structure be built per plans date stamped received by the Town on March 17, 1993. 2. 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 year provided the applicant places such request in writing to the Director showing good cause prior to the expiration of the discretionary action.

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

Mr. Heineke stated that he was disappointed with the Planning Commission because the Commission at a subsequent meeting agreed that replacement in kind could be done administratively but then he had to go through the public hearing and pay a fee of \$500. He stated that none of the Commissioners took the time to visit his property to look at his project. He felt that the law should be made very clear for the public. Also, he felt there should be limits placed on Town policy.

Ms. Chaney noted that the \$500 deposit was in fact a deposit, and Mr. Heineke will get much of the money back because this was a relatively simple application with no opposition.

C. PUBLIC HEARINGS - CONTINUED

1. **PS-9301/LLR-9301/Environmental Review, Parcel Split, and Lot Line Relocation, - Andrea Sandrig and Stuart Jacobson, 500 Oak Avenue, A/P 7-191-06 and 07, 1) environmental review; and 2) a parcel split to legalize the 1946 creation of two separate parcels, one which is currently developed; and 3) a lot line relocation for an approximately 5 acre piece of property located within the R-1-H Zoning District. **CONTINUED TO MAY 3, 1993****
2. **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. **CONTINUED TO MAY 3, 1993****
3. **V-9315 - Laurent Recollon - 36 Canyon Road, A/P 7-062-09, a variance to construct an 8'6" retaining wall along Canyon Road beyond the front property line (within the right-of-way) in order to help stabilize the slope supporting the house; and 2) a retaining wall within 4' of the east side property line, on property located within the R-1 Zoning District (above 150' mean sea level). **CONTINUED TO MAY 17, 1993****
4. **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 MAY 3, 1993****
5. **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'**

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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 MAY 3, 1993

D. PUBLIC HEARINGS

1. **V-9312/NU-9301 - 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).

The applicant was present.

Ms. Wight presented the staff report. She stated that based on the letters of opposition, the main objection seemed to be the feeling that because this was an application for a use permit, the neighbors thought the unit would be rezoned to R-2. She indicated the the owners of 22 Vine came in and she explained that was not the case.

Ms. Wight explained the second unit requirements. She stated that owners are required to live on the premises and although the use goes with the land, this permit could be revocable if there are problems with the use.

Mr. Guelff wanted to thank staff for the excellent job. He stated that the main issue seems to be parking and currently there are two vehicles on his property. He felt that widening the driveway, would be difficult because the water and gas lines are in this location and also the driveway would take up too much of the front of his lot. It is his understanding that his neighbors are not longer opposed to his project.

Ms. Chaney noted that she spoke with the Public Works Director about the additional driveway, and he stated that cars might bottom out because of the steep incline.

Mr. Don Mansell, 90 Holstein, said he lived at 21 Melville for several years and still own it. He stated that over the years, and with previous owners, this property has been changed from a single family dwelling to a duplex and the garage has also been converted to a granny unit. He wondered who will enforce the second unit requirement that the owner live on the premises. Extensive work has been done on this property but he did not know if permits have been obtained. He wanted very much to preserve the single family neighborhood.

Philip Car, 9 Vine, has watched the property change hands over the years. This neighborhood has no sidewalks and is a dead end street. He said that two cars cannot park on the street and have cars pass through because it is very narrow. He is concerned that the property has already changed hands and was up for sale last year and although he has no objection to his neighbor, what will happen if the property is sold. He was also very concerned about enforcement.

Tony Backer, 22 Vine, was concerned about the second unit and came down to the Planning Department to talk with staff. He stated that he was not opposed to his owner having a second unit but was not sure what future owners would be like.

Mr. Guelff stated that it was his understanding that the use was not transferrable but has since learned that it goes with the land. He stated that he was an absentee landlord for about two years, and did have a tenant on the property at that time. He also had trouble with the tenant and sympathizes with the neighbors.

Ms. Wight stated that in 1978 a building permit was obtained for the lower addition. There was no application or approval for a second unit. There have been resale reports done on the property that indicate the property was zoned R-1 and has never shown that there is a second unit. Also, staff cannot condition the number of people on the unit. With regard to enforcement, the Town sends a letter annually to update the files and hopes that the information is accurate. With regard to transferring the use, the law requires that the use goes with the property but it can be revoked if the conditions of the use are not met.

Sandy Backer, 22 Vine, is very opposed to the project because it is a dead end street and the children can now play in the street, and she did not want people moving in and out of the neighborhood because the neighborhood is very closely knit.

Sid Shadle, 40 Vine, is opposed to the second unit for the same reasons as his neighbors. Also, he is at the very end of the street and all the cars turn around in front of his property.

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Applicant, stated that his house is about the third one in and traffic does not affect most people on the street. He stated that he only has only two vehicles.

Commissioner Sias thought the staff report was excellent and is inclined to agree with the recommendations of the staff report. His primary concern was that the current parking situation cannot work for three cars and the alternative proposed by staff would not work because of the water and gas lines. It is clear from hearing testimony from the public that on street parking is objectionable. He would consider approval on a redesign, if parking is taken on the site. He stated that there might be revocation on this project in the future by the neighbors if this did not work. He was also curious how the garage conversion was never noticed by the Building Inspector during the time of two resale inspections.

Commissioner Harle supported the staff report but added that this is probably an over use of a small lot. There is not sufficient room for suitable parking on this lot. He did not think this was appropriate to run parking into the right of way.

Commissioner Julin supported the staff report, supported the second unit in concept but could not approve the project because of the parking situation.

Commissioner Hayes stated he was torn by this project because it has transformed over the years and now they are asked to approve a second unit however, he was given to understand that the applicant has been using the current parking situation successfully for the last seven years. He therefore did not think they needed to change the current parking situation.

Commissioner Kroot stated that the applicant currently uses the parking successfully, and therefore he was satisfied with the current parking. He stated that there are second units surrounding him in his neighborhood and they work successfully. He also would support a second unit in this location. The unit is unobtrusive and below the house.

Commissioner Julin stated that comments from Commissioner's Hayes and Kroot were very persuasive and she therefore has changed her mind on this project and is now willing to approve the project.

Chairman Mihaly stated that this second unit is appropriate for this neighborhood at this time. The fact that this is a conversion is irrelevant. This is an affordable housing issue. The enforcement will have to be done by the neighbors because there is no money to enforce. This is an ideal location for a second unit, there is no intrusion of light, and no setback problems.

Commissioner Harle stated that the arguments he has just heard have swayed his vote and he is now in favor of this without a change in the design of the driveway.

M/S Kroot/Julin, to approve V-9312/NU-9301 - 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).

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 deprives the property of privileges enjoyed by other property in the vicinity and under an identical zoning classification, and the granting of the 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; and The special circumstances are the small size of the lot, the topography, which is up slope, and the existing screened parking spaces in the front of the lot.
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 improvements in such neighborhood. The granting of the parking variance will not result in a detriment because three car parking already exists and has without complaint and staff's alternative proposal would not work. Conditions of approval are: The zoning of the property will remain R-1 (Single Family Residential). The Town has a Second Unit Ordinance which provides for the establishment of second units throughout Town, but it does not involve a change in zone; and 2. The property owner will be required to maintain this property as his principle residence (e.g. 9 out of 12 months). The applicant has told staff that he and his wife occupied the property at one time and the lower unit was used occasionally. Two years ago, when he and his wife separated, he no longer lived on the property, but when he returned to live there in October, 1992, he had the lower unit vacated and now wishes to legally establish it as a second unit; and 3. Should the property ownership be transferred, the use permit goes with the property, but is always considered a "revocable" use permit. Failure to adhere to all of the conditions of the use permit will result in the scheduling of a public hearing for possible revocation of the use permit.

Use Permit:

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1. Falls within the maximum number of second residential units authorized by resolution of the Council for the single family residential use area in which the unit is located; This unit will fall with the maximum number of second residential units authorized by resolution of the Council for the Seminary neighborhood. 2. Is located on an Assessor's parcel or parcels on which the owner of record maintains his principle residence; this unit is located on an Assessor's parcel on which the owner of record maintains his principle residence; 3. Does not encroach upon required setbacks, or cover land in excess of 35 percent. This unit does necessitate vehicular parking within the required setbacks, and, thus a variance is required; 4. Meets all applicable codes in effect at the time of the establishment of this unit; This unit will be inspected by the Building Inspector prior to occupancy. The building was last inspected in 1985. 5. Will be made the subject of a rent guarantee contract between the applicant and the Town; Prior to occupancy, the applicant will be required to enter into a recorded 'Rent Guarantee with the Town. 6. Does not cause excessive noise, traffic, parking, or overloading of public facilities; This unit should not cause excessive noise nor traffic. 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 to the general welfare of the Town. The establishment of the second unit will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood, or be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the Town.

Ayes: Julin, Harle, Hayes, Kroot, Mihaly

Noes: Sias

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

2. DR-9306 - Harry Kraft - 35 Pasadena, A/P 5-202-02 and 03, 1) design review of a single family residence to construct a second floor addition; and 2) a variance request to add a third story on an existing two story house, where the footprint does not exceed 25% slope, on property located with the R-1 Zoning District (above 150' mean sea level). (V-9315 - Plans have been revised and a variance is no longer required).

Hank Taylor, Architect, was present to represent his client.

Ms. Chaney presented the staff report on behalf of Mr. Washington.

Mr. Taylor explained the project. He stated that this started out as a addition of the kitchen, bath, bedroom and utility room and during the renovation they decided that because of water damage, several poor additions in the past, and mold, this has turned into a giant project. He stated that he understood staff's reasoning for denial of the variance and therefore the plan has been changed to create a deck. The owners will also be happy to provide additional landscape to help screen.

Don Birrer, 29 Pasadena, was shocked by the scale of the project. However, if the addition stays within the Zoning Ordinance he has no objection to the project. But he wanted the Commission to be mindful that this is a very large project. He asked that landscaping be planted to provide some screening.

Commissioner Harle supported the proposal and the staff report.

Commissioner Julin supported the project but thought the colors were too light from what is normally approved in the hillsides.

Commissioner Hayes supported the project with the exception of the exterior siding. He would prefer a darker siding and would like to see that additional landscaping is provided. Final approval could be handled by the Planning Director with input from the applicant and neighbor at 29 Pasadena.

Commissioner Kroot stated that the color was too light and bright and should be toned down. He said the applicant should work with the neighbors and staff to define the landscaping requirements.

Commissioner Sias approved the project, would like a darker color, and see additional landscaping, which could be approved by staff and the applicant and neighbor.

Chairman Mihaly had nothing further to add.

M/S Sias/Julin, to approve DR-9306 - Harry Kraft - 35 Pasadena, A/P 5-202-02 and 03, 1) design review of a single family residence to construct a second floor addition; and 2) a variance request to add a third story on an existing two story house, where the footprint does not exceed 25% slope, on property located with the R-1 Zoning District (above 150' mean sea level). (V-9315

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- Plans have been revised and a variance is no longer required). 1. Is functionally and aesthetically compatible with the existing improvements and the natural elements in the surrounding area. This proposed dwelling will utilize exterior materials that are consistent with those currently used on neighboring residences in this area. The exterior finish will consist of vertical T1-11 siding and asphalt shingle roof. It will be used throughout the exterior of the house so as to create a structure that is uniform in appearance. 2. Provides for protection against noise, odors, and other factors which may make the environment less desirable. This proposal will not have any major long-term detrimental impacts on the environment. Conducting the existing use (single family residential) will be consistent with current activities occurring in this neighborhood. 3. Will not tend to cause the surrounding area to depreciate materially in appearance or value or otherwise discourage occupancy. The expansion of an existing residence will not cause the depreciation of property values in the surrounding area. The activity of a single family residence is consistent and compatible with activities currently occurring in this area. The improvement and expansion of this home may likely cause the appreciation of neighboring properties. 4. Will not create unnecessary traffic hazards due to congestion, distraction of motorists, or other factors and provides for satisfactory access by emergency vehicles and personnel. No additional vehicular trips will be generated by constructing an addition to this dwelling unit. The location of the house will not obscure visibility on Pasadena Avenue nor will it inhibit the smooth flow of traffic to and from neighboring properties. 5. Will not adversely affect the health or safety of persons using the improvement or endanger property located in the surrounding area. The proposed dwelling will conform with all established codes controlling building and grading associated with the construction of a new single family residence. These standards have been adopted to insure that new developments will not create any adverse or hazardous conditions during construction and after completion. 6. Conformance to the approved precise development plans. This property is zoned R-1 and a precise development plan is not required. 7. Adequacy of Screening. There currently is a substantial amount of vegetation around the base of the site along Pasadena Avenue. However, no existing trees are to be removed from the site due to the construction of this addition. The design and layout of the house will not be overly obtrusive to the neighborhood. 8. Selection of architectural features that enable the structure to blend with its environmental. The design of this house will be similar in nature to neighboring residences and the exterior materials are appropriate for a single family residence. **Conditions of approval are: 1. That the request for the Design Review be approved, in accordance with the plans date stamped received by the Town of San Anselmo on April 15, 1993. 2. Unless waived by the Fire Chief of the Ross Valley Fire Department the applicant shall install an interior sprinkler system to the specification of that agency. 3. Prior to the issuance of a building permit the applicant shall file an application for a lot merger to erase the lot line between Parcels 5-202-02 and 03. 4. 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 year provided the applicant places such request in writing to the Director showing good cause prior to the expiration of the discretionary action. 5. The applicant shall return to the Planning Commission with an alternative color scheme for review and approval. The revised color board shall be a darker hue to blend with the surrounding trees and landscaping. 6. A landscape plan shall be designed to screen the property from 29 Pasadena Avenue. Said landscape plan is to be agreed upon by both the neighbor at 29 Pasadena and the applicant with final review by the Planning Director. If it is not agreeable to both parties, the landscape plan would be appealable to the Planning Commission.**

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

E. GENERAL DISCUSSION

Ms. Chaney distributed draft wording for the Zoning Ordinance revision relating to replacement in kind and increasing the design review process from 500 square feet to 800 square feet. She asked the Commissioners to review the wording and make any comments.

Chairman Mihaly and Commissioner Hayes indicated that they will not be present for the May 3rd meeting.

Commissioner Julin stated that on April 6, 1993 the Town Council had a meeting to discuss the projected budget for the coming year. She stated that Mayor Kanis asked that this information be brought back to the Commissioners.

F. OPEN TIME FOR PUBLIC DISCUSSION

There was no discussion

G. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

There was no discussion.

H. ADJOURNMENT

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The regular meeting of the Planning Commission was adjourned at 10:05 p.m. to the next meeting of May 3, 1993.

BARBARA CHAMBERS