

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF FEBRUARY 28, 1994**

The special meeting of the Planning Commission was held in the Council Chamber by Commissioner Israel. Staff present was Director of Planning Ann Chaney and Planning Consultant Delvin Washington.

A. CALL TO ORDER

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

B. CONSENT

1. Minutes - January 24, 1994 -
February 7, 1994

M/S Harle/Julin, to approve consent agenda. Motion unanimously passed.

C. PUBLIC HEARINGS-CONTINUED

1. **V-9401/DR-9401/ER - Scott Hochstrasser for Vicking Leon, 5 Vista Lane - A/P 7-021-24**, 1) Setback variances: Garage to be within 15' of the rear property line at the northwest corner and 11.5 feet from the rear property line at the northeast corner (20' is required); House to be within 10 feet of the front property line and rear property line (20' is required); Bay window to be within 8 feet of the rear property line (20' is required); Deck to be within 9 feet of the rear property line and 10 feet from the front property line (14' is required); 2) Parking for a third tandem parking space will be standard 20 feet in length from the front property line; 3) Design review of a new dwelling and 4) Environmental Review on property located within the R-1 Zoning District. CONTINUED TO THE MEETING OF MARCH 7, 1994
2. **V-9405 - James King, 25 Waverly Road, A/P 7-264-02**, a request to construct an addition that will be located 3' from the side property line (8' is required), and 2) a request to construct a new deck and stairway that will be 9'6" from the front property line (14' is required), on property located within the R-1 Zoning District. CONTINUED TO THE MEETING OF MARCH 7, 1994
3. **V-9406 - Edward and Michelle Chouinnard, 208 Sequoia, A/P 6-114-01**, a variance request to: 1) allow the applicant to relocate a spa within 1' of the rear property line (8' is required); 2) a trellis and arbor to remain within 0' of the rear property line (8' is required); and 3) to allow portions of a fence to be 8'in height where 6' is permitted; on property located within the R-1 Zoning District. (After-the-Fact) NOTE: The spa and portions of the fence and trellis currently encroach into the adjoining property). CONTINUED TO APRIL 4, 1994

D. OPEN TIME FOR PUBLIC DISCUSSION

There was none.

E. PUBLIC HEARINGS

1. **Town of San Anselmo** - Proposed Ordinance Amendment to limit fence heights within the front yard and street side yard setback to 3'6" where 6 feet is currently allowed.

Ms. Chaney presented the staff report which included an overview of how this project came before the Commission.

Commissioner Harle stated there is a fence on Redwood Road that could presents a problem and wondered if design review would be required on R-1H and R-1C properties. The tendencies for high fences seem to be spreading in the hillsides.

Commissioner Julin felt that the materials are very important as well as the height. There could be some problems with that the 10' side yard setback as suggested by staff. Specifically, there could be some exceptions such as bay windows because of the protrusion which would need more than the 10' side yard setback. Ms. Chaney stated her intention was that the fence within the 20' front yard setback area should be less than 6' in height and could gradually increase to 6' in height. Commissioner Israel agreed with Commissioner Julin that the intent is somewhat unclear.

Commissioner Sargent asked how frequent are the applications for fence permits. Ms. Chaney said that in fiscal year 90-91 there were 50 fences; fiscal year 91-92 there were 50 fences; fiscal year 92-93

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there were 33 fences; and fiscal year 93-94 (7 months) there were 18 fences.

Commissioner Sargent thought it would be difficult to determine the front/rear/side of the property lines in the outlining areas and that it might be difficult to clearly define the ordinance. Therefore each proposal should be handled on a case by case basis based on the shape of the lot. Anything over 3 1/2' should have design review and anything under should be exempt.

Commissioner Harle did not feel this has not been conceived as a planning problem until recently however it has now become popular to have privacy around property.

Commissioner Israel thought that there should be a statement in the ordinance that talks about how the height is measured, both on flat lots and those that slope, as well as the use of retaining walls as part of a fence.

Randy Hybach, 66 Lincoln, understands the desire for control however those individuals that have unique lots should also be given consideration for privacy and security. There may be many people who would not like to see subjected to a lot of money for a fence. The ordinance should be made very clear. The Commission might consider a percentage of enclosure for privacy. He also wondered if there is really a concern in the community. If this is not a large concern, perhaps it should be placed on hold. Ms. Chaney stated that it might be helpful to take some of the odd shaped lots and interpret those as examples.

Cathy Sanders, 310 Redwood Road, presented photographs of homes that have solid fences in the hillside areas. There is no area between the fence and the right of way to soften the fence by plants. Some fences create a strong tunnel affect. The deer are coming down from the hills for food but there should be a way to allow protection but not wall off the property. An increased amount of vegetation is being removed been removed from the hillside because of fire hazards and fences seem to go up in place of the vegetation.

Sandy Magid 49 Canyon, said that an ordinance like this will only add to the bureaucracy and this situation may not really be a problem. Some new houses have been built which include fencing for privacy; He felt there should also include grandfathering of older fences if they blow down during a storm etc. If there is a trend to build higher fences, it might be for privacy.

John Saffron, 9 White Way, is offended by the 6' fence on Redwood Road; the road is dangerous enough without fencing and the fence creates a much greater safety hazard. Also, when new homes are being built, it should be taken into consideration at that time. He suggested a limit of a solid fence of 3-4' in height or a 6' fence that is mesh. Anything else must be design review. He would rather see mesh fences, covered with green wire.

Harry Dykhuizen - 3 White Way, thought that it is really important to consider the neighbors and the area when a fence is constructed. The fence on Redwood has changed the character of the neighborhood.

Matt Owens, 12 Allyn Avenue, there has been an increase in violence and crime. There have been several suggestions for fenced communities and therefore it is very important to have an ordinance that addresses fences.

Ray Bergman, 17 White Way, considered this is a very important issue and not one to be taken lightly. He felt strongly about design review because it can change the character of the neighborhood.

Commissioner Julin liked staff's proposal and would like to move it on to the Council. All the concerns of the public speakers could be handled with design review. She would like to see the side yard setback increased to 12' because it would be simpler.

Commissioner Harle agreed that most of staff provisions would be handled through the design review. He is not really sure about the grandfather clause because there are some fences that he would like to see go away. There should be some provision that strongly states that a right exists for a certain percentage for privacy; where conflicts exists, the private enclosure should take precedence.

Commissioner Sargent wondered if a 20' setback would work for the hillside. He liked San Rafael's ordinance but wanted to include some height to allow for a gate/arbor.

Commissioner Israel said that there is a misconception that fencing protects a property. He does not preclude the use of a 6' fence, only that it does not present a detriment. He agreed with Commissioner Julin that the side setback should be 12' instead of 10'. It is important that there is a clear direction as to why this ordinance is being adopted. A variance should not be approved just because it affords the residence privacy unless it is the only way to provide privacy on the lot without creating a walled city. He agreed with Commissioner Harle about the grandfather clause. There should be a statement about cyclone fences in the ordinance. In the interest of reducing bureaucracy, could there be something like San Rafael; up to 3'6" a solid fence is permitted; up to 6' if the fence is open; any other cases should have design review.

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Commissioner Harle did not know how easy it would be to define "open".

Commissioner Sargent said that the best way to get variety is to provide drawings of fences that are acceptable. The ordinance will seem restrictive until the public understands the reason.

Commissioner Julin thought many communities have done this in the past and suggested contacting some Planning Departments for their procedures.

M/S Harle/Julin, to submit the recommendation to the Town Council for consideration about proposing a fence height ordinance as proposed by staff, with the exception that the side yard be 12' feet, not 10'.

All ayes. Motion unanimously passed.

M/Julin, would like staff to develop some guidelines that reflect intentions regarding the criteria to be used in discretionary discussions with staff within three months.

2. **V-9328/DR-9320 - Edmund Coyne, 25 Canyon Road, A/P 7-064-14**, a design review and variance to construct a new single family residence 11'0" from the front property line (20' required), and 4' from the west side property line (8' required), and to remove three (3) redwood trees having trunk sizes of 24", 24" and 26" in diameter, on property located within the R-1 Zoning District (Above 150' mean sea level).

Mr. Luis Huerto Royo, Architect, was present.

Mr. Washington presented the staff report.

Mr. Huerto Royo said they tried to make changes to mitigate some of the concerns of the Commissions. If the size of the closets are reduced, the garage will become substandard because it is under the bedrooms. They are limited to the location because of the shape of the lot, a natural creek, and the beautiful trees that they want to save. If the bay window is reduced, they would be left with a dining room that is only 8' wide and a small living room. They have proposed additional landscaping to screen the house. Regarding the easement, he presented a copy of the Title Report that specifies the easement was granted to take care of any encroachments on the property. If the encroachment is removed, it cannot be rebuilt. If the bay is removed, the wall would become a solid and have no architectural interest.

Mr. Washington stated that it probably wouldn't be feasible to reduce the closets because of the length of the garage and the load bearing wall. He considered that there might be a reconfiguration within the house so as to allow the space where needed.

Roy Phoenix, 21 Canyon, liked the idea of removing the bay. The diagram of the trees on the plan are not realistic. This revised plan ignored the wishes of the neighbors.

Jonathan Braun, 479 Scenic, stated that he does not have more to add than the last meeting. The project imposes a very severe impact on the owners of 21 Canyon.

Sandy Magid, 49 Canyon, concurred with Mr. Braun. He recommended that the two possible trees that may be removed should not be allowed to be removed.

Commissioner Harle was not enormously happy with this minor redesign on the east side. On the other hand, he hears clearly what the architect says in response to staff's recommendation. There is very little room that can be given away and he is not sure that a redesign will benefit the neighbors on the east side. This is not a very big house as it is and somewhat tortured in design to save the trees. The difficulty with the creek also restricts development on the side. He is leaning in the direction to approving this latest redesign.

Commissioner Sargent said he is concerned about the deck and did not think it should be approved because of the close proximity to 21 Canyon. Mr. Washington stated that the deck is at grade and the bay is on the second level.

Commissioner Julin liked staff's suggestions where they will work. This lot would not be created by today's standards. This lot is environmentally constrained. Sometimes the only mitigation is to make the house smaller. She also questioned the location of the redwood trees in the small space.

Commissioner Israel appreciated the changes. The house from the street works well for the neighborhood. The biggest problem is the wall and projecting bay that faces the owners at 21 Canyon. He likes the idea of pulling the house in, not at both levels, but giving relief in the wall so that there is not a continuous line. It will create definition and will soften the wall. He would still like to see the bay window facing the neighbors reduced in size so it will still provide light but not be so massive. He

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did not think the size of the rooms were large, but perhaps not located in the best place. He suggested creating a bay off to the side as opposed to where it is, also the garage is at street level; if there was a modest increase in the garage height there might be a way to gain more living space.

Commissioner Harle liked the notion of moving the bay to the side.

Mr. Huerto Royo said the bay can be moved about 1 1/2', which would create a 9 1/2' setback instead of 8' setback and have the cantilever for the bay.

Commissioner Julin reiterated that the size of the house is not that large but it is an environmentally sensitive lot. Commissioner Harle stated that another suggestion would be to cut down the two redwood trees and redesign the house.

Commissioner Israel could not envision how the reduction of 1 1/2' would make a significant change.

M/S Julin/Harle, to continue V-9328/DR-9320 - Edmund Coyne, 25 Canyon Road, A/P 7-064-14, a design review and variance to construct a new single family residence 11'0" from the front property line (20' required), and 4' from the west side property line (8' required), and to remove three (3) redwood trees having trunk sizes of 24", 24" and 26" in diameter, on property located within the R-1 Zoning District (Above 150' mean sea level). This is continued to the meeting of March 21, 1994 to allow the Architect time for redesign of the project to reflect concerns as discussed tonight.

Commissioner Sargent suggested giving more definition to the Architect so he can better understand the intention of the Commission. Commissioner Israel said his hesitation in making that is not to mislead the Architect. He is not sure that it would be beneficial to move both stories back. Commissioner Julin suggested that staff talk to the applicant. She that she would not like to see it projected by the bay.

All ayes. Motion unanimously passed.

3. **V-9407/U-9403/DR-9405 - Martin Willemsen, 224 Sir Francis Drake Boulevard, A/P 6-252-05, 1) A use permit to permit living quarters; 2) design review of a second story living unit; and 3) a parking variance for on-site parking to remain substandard in size and number, on property located within the C-3 Zoning District.**

The applicant was present.

Ms. Chaney presented the staff report on behalf of Ms. Wight.

Mr. Willemsen stated that staff recommendations make sense to him. The outside will not be changed at all, although it will be changed inside. He is willing to sacrifice the 10' in the rear as suggested by staff.

Commissioner Julin asked if this building will be preserved for historical purposes and will the changes affect the preservation of the property.

Mr. Williamsen stated that the plumbing and electricity is really out of date. The building was built in 1911.

Commissioner Sargent is very happy to see residential over retail, as well as preservation of the facade. He did caution the applicant that the Building code issues may be complicated.

Commissioner's Julin and Harle had nothing further to add.

Commissioner Israel was also happy to see residential along with commercial. He would like to see the rear wall handled similar to the front;

Mr. Willmsen suggested stucco on the rear of the building.

M/S Sargent/Julin to approve V-9407/U-9403/DR-9405 - Martin Willemsen, 224 Sir Francis Drake Boulevard, A/P 6-252-05, 1) A use permit to permit living quarters; 2) design review of a second story living unit; and 3) a parking variance for on-site parking to remain substandard in size and number, on property located within the C-3 Zoning District. This approval is as follows:

Parking 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 or regulation 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; The granting of the variance, under the circumstances of the particular case, will not materially affect adversely the health or

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safety of persons residing or working in the neighborhood of the property of the applicant and will not be detrimental to the public welfare or injurious to property or improvements in such neighborhood.

The parking variance is necessitated by two things: 1) the first story 10' commercial building extension; and 2) the second story residential living unit. The special circumstance applicable to the property is the size of the commercial lot, which is 125' in length and the width ranges between 12.5' on the Sir Francis Drake Boulevard frontage and narrowing to 10.5' on the Smith Lane frontage. Although there is no Code minimum lot for commercial property, this lot is narrower in width than most others in the neighborhood, which precludes side by side parking. On the other hand, the substandard parking situation is being exacerbated by the expanded commercial space, so the hardship is self-created. Staff cannot support the expansion of the first floor. Staff does not believe the one-bedroom apartment would have a significant adverse impact on the neighborhood provided there are restrictions by the applicant that only one vehicle associated with the residential unit can be domiciled on the property. The remaining two spaces could be used by the commercial tenants. The second floor can extend over the parking, provided a minimum height of 7.6' is provided for the parking area.

Use Permit:

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 residential use of the proposed second story will not have an adverse impact on the neighborhood provided there is a parking restriction as issued under the variance findings. Staff feels the use, which will be built away from commercial Sir Francis Drake Blvd, and towards residential Smith Lane will be very compatible with the neighborhood.

Design Review:

1. *Is functionally and aesthetically compatible with the existing improvements and the natural elements in the surrounding area.* The front facade will remain unchanged and, therefore, the additions will be functionally and aesthetically compatible with the existing improvements and the natural elements in the surrounding area on Sir Francis Drake Boulevard. While the new construction will be a vast improvement to Smith Lane, staff has not received a rear elevation of the building. By copy of this report, the applicant will be requested to present one to the Commission at their meeting.

2. *Provides for protection against noise, odors, and other factors which may make the environment less desirable.* The residential use will not cause noise, odors, and other factors which may make the environment less desirable. There is a rear deck proposed on the apartment fronting Smith Lane, which could lend itself to outdoor noise; however, it will likely be compatible with the other residential rear yards on Smith Lane. 3. *Will not tend to cause the surrounding area to depreciate materially in appearance or value or otherwise discourage occupancy, investment, or orderly development in such area.* The additions will be an aesthetic improvement to the neighborhood. 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.* The existing driveway and parking area is existing, and the proposed additions will have no impact on sight distance. 5. *Will not adversely affect the health or safety of persons using the improvement or endanger property located in the surrounding area.* The improvements will not adversely affect the health or safety of persons in the area. **Conditions of approval are: 1. Eliminate expansion of the commercial first story; and 2. Restrict the number of vehicles owned and/or operated by tenants of the residential unit to one (1); and 3. Photographs be taken by the applicant of the existing building prior to demolition so as to retain the historical preservation.** Motion unanimously passed. Audience advised of the ten day appeal period.

F. GENERAL DISCUSSION

Selection of a Planning Commissioner to serve as the Fraser/Bald Hill negotiator/consultant on the Selection Committee.

Commissioner Sargent offered to sit on the board.

G. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

There was none.

H. ADJOURNMENT TO THE MEETING OF March 7, 1994

The special meeting of the Planning Commission was adjourned at 11:30 p.m. to the next regular meeting on March 7, 1994.

BARBARA CHAMBERS