

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES FOR MARCH 4, 1996**

The regular meeting of the San Anselmo Planning Commission was convened at 7:30 p.m. by Chairman Israel. Staff present was Planning Director Ann Chaney and Associate Planner Lisa Wight.

A. CALL TO ORDER

Commissioners Present: Israel, Sargent, Duys, Harle
Commissioners Absent: Mihaly, Wittenkeller

B. CONSENT

1. Minutes - February 5, 1996
Minutes - February 20, 1996

M/s, Sargent/Duys to approve the consent calendar. Ayes: All.

C. OPEN TIME FOR PUBLIC DISCUSSION

No one spoke during this time.

D. PUBLIC HEARINGS - CONTINUED

1. PDP-9505/Parcel Split - 9503/V-9549/DR-9525 - Carlos Castro, 444 Redwood Road, A/P 7-191-10, 1) a land division, precise development plan, density determination and design review to subdivide an existing property currently developed with a single family residence in order to construct a new house; and 2) a variance to allow an access easement across the existing driveway for 444 Redwood in order to serve the proposed new parcel; 3) remove one heritage tree (30" bay) (this project will involve the removal of 12 bay trees between 6" and 22" in diameter and one 15" walnut tree), on property located within the R-1H Zoning District. **CONTINUED TO THE MEETING OF MARCH 18, 1996**

2. DR-9530/S-9503 - Red Hill Shopping Center, 834-916 Sir Francis Drake Boulevard, A/P 6-061-23, design review of new exterior building colors and sign review of a new sign program on property located within the SPD Zoning District **CONTINUED TO THE MEETING OF MARCH 18, 1996**

3. Environmental Review/PDP-9501/V-9541 - Jack Hunt, Between 41 and 43 Tomahawk Drive, A/P 177-250-31, 1) Environmental Review, 2) Planned Development Permit, and 3) Variances to ultimately construct a single family home with access via a long driveway off of Tomahawk Drive. A Variance is required to construct a 450' long retaining wall (maximum height of 7') within 3' of the north side property line (8' required) and within 3' of the front property line (20' required); and to construct a series of retaining walls totaling 251' long (maximum height of 9') within 2' of the south side property line (8' required). These retaining walls are proposed for the driveway and parking area and deck. Design Review for a specific house design is not part of this application. The property is located within the R-1-H Zoning District. **CONTINUED TO APRIL 1, 1996**

E. PUBLIC HEARINGS

1. V-9605 - Chris Hamilton, 33 Rosemont Avenue, A/P 5-071-54, setback variance to construct a second story addition with an uncovered roof deck over an existing garage that is within 2' of the west side property line (8' is required), on property located within the R-1 Zoning District.

Ms. Wight presented the staff report. Staff has difficulty making findings for special circumstances as the building could be located elsewhere on the property. Staff does not, however, believe the project will have an adverse impact on the neighborhood.

Commissioner Sargent asked where else on the property an addition could be placed. Ms. Wight pointed out the greenhouse area.

Matt Anderson, Architect for Chris Hamilton, 33 Rosemont, presented several letters from neighbors. A tree would have to be significantly trimmed but not removed, and the close neighbors don't object. The applicants believe the steepness of their lot is a special circumstance, as well as the distance from the house to Rosemont. Locating the addition where the greenhouse is would impact the nearby neighbor. They feel it is important to keep the addition close to the house. Regarding a deed restriction, the owners have no objections.

Commissioner Duys said she agrees that keeping the addition close to the house is important. She is concerned with the idea of a family room that is not attached to the rest of the house. It is obvious that the present plan will not impact neighbors negatively. She asked about the development possibilities on the property behind this home.

Ms. Wight said this property has already been added to and granted variances.

Commissioner Sargent said this is a difficult variance to grant as it is a large lot with many different options. It is hard to make a finding even though the plan makes sense.

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Commissioner Harle agrees with Sargent. There are no findings that the applicants are going to be deprived of enjoyment of the property without a variance. This really would be a special privilege.

Chairman Israel said moving this addition elsewhere on the property would have a lot more impact on neighbors. He feels it is odd not to allow a business in an accessory structure. This rule should be reviewed. He cannot find any findings to grant this variance.

Matt Anderson, Architect, said a 5 foot setback shift on the addition is possible without major problems with the foundation and the hillside.

Chairman Israel said the applicant could come back with a different plan if the Planning Commission denied this application without prejudice, but it would be subject to additional fees. No fee would be required if the matter is continued. The applicant should discuss alternatives with staff.

M/s, Sargent/Harle, to continue this item to March 18, 1996. Ayes: All.

2. DR-9120 - Ted Posthuma, 379 Oak Avenue, A/P 7-241-61, Amendment to a previous design review approval to allow construction of a steel frame patio cover and second story deck, on property located within the R-1 Zoning District.

Ms. Chaney presented her staff report, detailing a history of this project, which includes an addition request, a denial of a second unit, and construction on the denied project. There is presently a steel frame patio cover in place which Mr. Posthuma was required to remove by order of the Town Council. The nuisance abatement is presently on hold as Mr. Posthuma filed a protest. Staff recommends that the porch cover be pulled back 6 1/2 feet, retaining the I-beam attachments at either end and having an 18 foot x 6 foot covered area, requiring removal of about two-thirds of what is there. Ms. Chaney outlined the conditions recommended by staff in the report.

Commissioner Harle asked what was objectionable about the original design. Ms. Chaney said the Town Council wanted the whole thing removed, but indicated it would consider a reasonable porch.

Commissioner Sargent asked if this addition was designed to be what was originally denied.

Ms. Chaney said the only difference now is that the addition is four feet back from what the Town Council saw. Because the Town Council took the action on the nuisance abatement, they will have to amend that resolution regardless.

Commissioner Harle asked what would happen if they approved the project as is. Ms. Chaney said the Town Council can appeal any action.

Jeffrey Moss, Attorney for Ted Posthuma, said Mr. Posthuma regrets that he began this construction without permission. The minutes for the Town Council do not reflect whether the deck was approved or not, but they believe they were supposed to go back to the Planning Commission. This deck structure is down in a little valley so it is barely visible. Regarding the structure, it is actually a small deck, and Mr. Posthuma's house is relatively small in comparison to the lot size. Moving the deck back will not give him much protection from the rain. His neighbors do not oppose the proposed deck.

Commissioner Duys asked what room the deck would be off of. Mr. Moss said it is a bedroom.

Chairman Israel asked about the proposed finish for the deck.

Mr. Moss said it will be either concrete or wood on top of the corrugated metal. The sides will be wrought iron and glass. The area near the deck is planned for garage construction and vegetation will be planted.

Ms. Chaney said a lower garage has been allowed to remain, but the parking pad nearby has been removed as required.

Chairman Israel asked about a business that was at one time planned for this location. This covered area would make a good workshop area, plus that extra garage would be handy. He is concerned about future use.

Mr. Moss said this area is the front door entry area in a very expensive house. Mr. Posthuma would not want to store his tools right at his front door.

Mr. Posthuma said this is his last construction effort. He is now working in the nonprofit field.

Commissioner Duys asked if we have the approved plans for the garage. She is having difficulty seeing a sliding glass door entry as the front.

Posthuma said it is a sliding door because the wind is so strong right there that a pivoting door would be too difficult.

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Commissioner Sargent said the fundamental reason for being here is that this structure was built illegally in the beginning. Trust has been violated. He will support the staff recommendation because the structure was built without regard for the process.

Commissioner Harle said he would prefer to judge this project on its merits alone, and not use it for punitive measures. In the design review light, he sees no major objection to it. He is willing to permit the application. There should be a restriction that it shouldn't be enclosed except through proper application and design review process.

Commissioner Duys said this is definitely overbuilt for being a front entrance. She likes staff's generous recommendation to reduce to 6 feet by 18 feet. She is bothered by the design and feels a smaller size would blend better with the house.

Chairman Israel said the deck is on a good site on the property. He hasn't seen a landscaping plan, a finish color, or a plan for how the railing and the edge of the deck will be finished. This won't have a big impact, but it could if it's not handled well. He doesn't feel comfortable approving the project without that information. He is concerned over the large cyclone fence and big cuts taken in the road. Regarding the Town Council, there is a significant difference between the new one story and previous plans for a two story structure. Building length is not affected by this proposal. He could support a continuance or denial without prejudice. Six feet seems rather inadequate for the deck.

M/s, Harle/Israel, to continue this item to April 1. Ayes: All.

Chaney summarized her understanding of the Commissioners' positions. Two commissioners have no problem with the deck size of 18 or 20 feet. Two Commissioners prefer the six foot width. The Commission would like to see more detail on the deck railing, landscaping, color, finish, trim, and deck material.

Mr. Posthuma invited the Commissioners to call and come see the deck up close.

3. Use Permit Amendmant - Carolyn Handelin, ABC Academy, 176 Tunstead Avenue, A/P 7-213-45, 176 Tunstead Avenue, 6 month review of a use permit granted on September 27, 1994, to add day care for children in grades K - 3, on property located within the R-3 Zoning District.

Ms. Wight presented her staff report. Town Council approval of this use permit required a six month review, with a written report from Police and Fire also required. One condition to the approval, planting near the rear fence, has not been completed and staff recommends action be taken. In addition, a rear fence has not been replaced as conditioned, but it is fine as it is. The police report says there have been some complaints, but may not be specifically attributable to ABC Academy. The Fire Department report is positive. Staff recommends the Planning Commission approve the continued use of day care for school age children at ABC Academy.

Carolyn Handelin, 176 Tunstead, said ABC parents have all signed contracts that they agree to park legally. She has not received any complaints. They've broken up outside time for the children to be considerate of their neighbors and it's working well. They put in five privets at the rear fence, but were worried about fire danger so they cleaned up the area instead of planting more bushes.

Joyce Wernsman, representing the owner at 55 Magnolia, said there is noise from the school at the complex, but others didn't want to come. If the bushes would be a fire hazard, she asked why the building isn't a fire hazard. The apartment closest to the school is hard to rent, because nobody wants to live next to a day care center. She feels the neighbors were unfairly treated. There is more water puddling now in their area. One tenant complained that a flood light is left on frequently.

Claus Binz, Tunstead (to the west), objects because the building was built without proper setbacks. He did report several parking problems. Their tenants closest to the fence say the school is noisy.

Chairman Israel asked if the condition is worse, better, or the same as before.

Mr. Binz said a tenant who returned after an extended time said it is worse than before, and the teachers are the loudest. There are still some big wheels in the yard.

Laurel Ladovich, 217 Forbes, said the school is a wonderful community service for her son who attends after school. The afterschool group is never full. Parents pick up at a variety of times.

Chuck Handelin, 176 Tunstead, said they didn't plant the privets because preferred the light in the yard. The fence they find to be just fine. They have created programs inside that are interesting to keep some kids inside during outside time. He encouraged residents to talk to them about problems. They have diversified to meet the needs of the community.

Joyce Brown, Greenfield, encouraged the Planning Commission to continue this use. It's hard for business owners and residents to live together happily.

Ms. Wight said it is fine with staff if the privets are not planted at the rear of the property.

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Chairman Israel asked for a clarification on the fence issue. Ms. Wight said the applicant's fence is on the property line and the second fence is on the apartment property.

Commissioner Harle said originally he didn't like the idea of expansion in such a congested area. But the Planning Commission and Town Council went along, so he'll support the staff recommendation minus the privet.

Commissioner Duys asked about the original application. Ms. Chaney said the use permit was need to expand the day care to school age children, and the Town Council requested the issue be revisited after six months to see how it's working. The building isn't the issue, rather its the expansion of the use.

Commissioner Duys said she is sympathetic with the neighbors regarding noise. She encouraged the owners to consider changing the floodlights in the back.

Commissioner Sargent supports the staff recommendation and hopes neighbors maintain their vigilance.

Chairman Israel said regarding the fire issue, the building has a special fire rating because of its proximity to the property line and so is specially constructed. He would like the floodlight required to be replaced with one that doesn't shine off the property. Regarding parking, maybe the school should notify parents that if they receive two complaints that they won't be allowed to go to the school.

Ms. Chaney said it would be difficult for the Town to enforce the school rules. You could say if a number of complaints are received the use permit could be reviewed.

M/s, SargentHarle, to accept the staff recommendation regarding the ABC Academy, without requiring the planting of privets and changing the flood light fixture so it doesn't shine toward the neighbor's property. Ayes; All.

4. WORKSHOP: Town of San Anselmo - Ordinance Amendment - Evaluation of the 8' interior side yard and 12' street side yard set back requirement in residential zoning districts for additions to existing structures which do not meet current set back requirements.

Associate Planner Wight presented her staff report, including a background on variance and setback rules, procedures, and issues. The Planning Commission seems to want to support these types of variances if there isn't an adverse impact on neighbors. Questions that need to be addressed are maximum size, a benchmark date, second story applications, parking, and noticing (100 or 300 feet).

Commissioner Sargent said he doesn't want to move the setback line to five feet, but when this is the best or only solution, why not make it a possibility. He feels design review would apply just for light and air issues.

Chairman Israel feels design review could be utilized in this five to eight foot set back area.

Ms. Wight asked how neighbors who object change the outcome. Commissioner Israel said he feels we have to weigh the application on its merits and impact.

Chairman Israel said it is difficult to rule by variance. He could live with 0-8 feet being dealt with with design review, based on proximity to neighbors. Using design review is easier because we're not limited by findings.

He feels it is all right to build on the property line in certain situations.

Ms. Chaney said there are three areas at question 1) what size of addition, 2) what is the process, 3) do you need special findings.

Chairman Israel said he feels that houses built prior to 1968 with less than a five foot setback should be subject to design review. After 1968, houses built with less than an eight foot setback should be subject to design review. This would eliminate the setback variance issue. Frontyard variances are another issue.

Commissioner Harle said designing the design review process so it will hold is important.

Commissioner Sargent said he supports this, but feels nervous about it. He would like a "but for" clause, perhaps with a finding of special circumstances of the building.

Ms. Chaney said we can exempt things, like bay windows, from the setback process.

Chairman Israel said a lot of the Commission's willingness to go along with variances has to do with style and with mass.

Commissioner Harle said the design review criteria must be defined very carefully. He would like to see a critique of the pitfalls, using real examples in Town.

The discussion was opened to the public.

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Teresa Allen, 14 San Francisco Blvd, asked what would happen if her neighbors get a one foot sideyard variance, that could limit her options in the future.

Ms. Chaney said there must be 10 feet between structures.

5. **Town of San Anselmo - Amendment to the Zoning Ordinance to revise and clarify the definition of "residential second unit" and add a new definition for "kitchen."**

M/s, Harle/Israel, to defer consideration of this item to March 18. Ayes: All

F. GENERAL DISCUSSION

1. **Discuss Planning Commission tour of built projects**

The date for a tour of built projects was set for Saturday, April, 20, 1996, from 9 a.m. - 12 p.m.

G. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

Ms. Chaney said the Town Council recently overturned two Planning Commission decisions, 7 Brookside and 865 San Anselmo Avenue. They will be hearing the 40 Mountain View appeal on March 12.

H. ADJOURNMENT TO Monday, March 18, 1996. Meeting time will be 7:30 p.m.

M/s, Duys/Harle, to adjourn the meeting at 11:00 p.m. Ayes: All.

Debbie Stutsman