

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES FOR FEBRUARY 5, 1996**

**A. CALL TO ORDER**

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

**B. CONSENT**

1. Minutes - January 22, 1996

2. DR-9601 - Ted and Jan Hofmann, 31 Elkhorn Way, A/P 177-264-13, a design review request to construct a 1,012 square foot addition to an existing single family residence, on property located within the R-1 Zoning District (above 150' mean sea level).

3. V-9602/DR-9601/U-9603 - Kerry Duff, 641 San Anselmo Avenue, A/P 7-212-23, 1) use permit to allow a residential unit with new 450 square foot loft area; 2) a variance to reduce the required size and number of parking spaces from seven (7) 9' x 19' clear spaces to three (3) spaces: two 7' x 16' spaces and one (1) 13' x 16' tandem space; and 3) design review to create a flat roof deck and roof access at the rear of the building, on property located within the C-2 Zoning District.

4. PS-9201 Geoffrey Koblick, 6-42 Red Hill Avenue, A/P 6-201-02, parcel split of a 38,251 square foot parcel to create a 7,100 square foot lot and a 31,151 square foot lot, on property located within the C-3 Zoning District

Item 4 was removed for discussion.

M/s, Harle/Wittenkeller, to approve the consent calendar. Ayes: All. Conditions of approval are as follows:

31 Elkhorn Drive:

1) This plan is approved in accordance with the plans date stamped received January 12, 1996 by the Town of San Anselmo. 2) The applicant shall file a deed restriction prohibiting the conversion of the lower bedrooms into a second unit. 3) The application is approved as per the color board submitted by the applicant and date stamped received December 15, 1995 by the Town of San Anselmo. 4) That if this development which has received conditional discretionary approval and has not begun within one year from the date of final action, the permit shall become null and void. However, this discretionary action may be reviewed by the Planning Director for a maximum period of one (1) year provided the applicant places such request in writing to the Director showing good cause prior to the expiration of the discretionary action.

641 San Anselmo Avenue:

1) That the project be constructed per plans date stamp received by the Town on December 4, 1995. 2) Group events or gatherings such as, but not limited to, birthday parties, wedding and baby showers, shall not be scheduled between 11:30 a.m. and 2:00 p.m. weekdays due to limited public parking. 3) In accordance with the Ordinance Code, any proposal in the future to locate a more intense use in the subject building, as determined by the Planning Director, may require an Amendment to this Variance and thereby require Planning Commission approval. 4) That the area in the rear of the site shall be properly prepared to accommodate the three parking spaces and be cleaned of debris. 5) That the front portion of this tenant space, and the entire rear of the building be repainted, with a color to be approved by staff.

**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 FEBRUARY 20, 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

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new sign program on property located within the SPD Zoning District. CONTINUED TO THE MEETING OF FEBRUARY 20, 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 THE MEETING OF MARCH 4, 1996

E. PUBLIC HEARINGS

4. (From Consent) PS-9201 Geoffrey Koblick, 6-42 Red Hill Avenue, A/P 6-201-02, parcel split of a 38,251 square foot parcel to create a 7,100 square foot lot and a 31,151 square foot lot, on property located within the C-3 Zoning District

Planning Director Chaney said a parcel split was approved in 1992, with a condition that a mutual access easement between this property and its neighbor be recorded to ensure continued driveway access to the neighbor's parking. The neighboring owner did not agree and the condition was deleted. Because the final map was never recorded, Mr. Koblick has to reapply for the land division. Last winter there was a slide on the property near this area. Even though this lot split was previously approved, any new conditions should be brought to the Commission's attention. The Planning Commission could ask for a soils report to ensure that building on the site is feasible. The lot is very small, but could be designed with tuckunder parking as the Planning Commission was shown by an architect at the time.

Geoffrey Koblick, Applicant, said the slide was not on this portion of land, but on the lot to the right and it has been repaired. He realizes a soils report will be required down the line, which is probably the more appropriate time than at this point.

Commissioner Wittenkeller asked about the purpose of the lot split. Koblick said the lot is to be sold, and he already has a buyer. The buyer plans to get a soils report before the sale is final.

Commissioner Sargent asked about pending litigation surrounding the slide. Koblick said he is suing the insurance company of the uphill neighbors for expense reimbursement.

Commissioner Duys asked about the parking situation. Ms. Chaney said the applicant was originally required to have an easement agreement with the neighbor so they can share a driveway to keep traffic clear on Red Hill. The neighbor chose not to enter the access agreement. The Planning Commission relieved Koblick of that requirement. Staff does feel that there should not be a separate driveway.

Commissioner Wittenkeller asked about the optical lab parking and wonders if this could be a concern in the future.

Ms. Chaney said they don't have many cars now at the optical lab. She said the optical lab should have sufficient parking although they have been using this property for parking.

Commissioner Duys said she doesn't have a problem with this split, and feels it could be beneficial in requiring common driveway access.

Commissioner Sargent said he agrees, but he would like to change condition #3 to require the creation of a single driveway.

Commissioner Wittenkeller said parking is the only issue in his mind, but if staff feels this will be covered, he would be in favor.

Chairman Israel said he supports the lot split, but not necessarily the particular configuration with the tuckunder parking.

M/s, Sargent/Wittenkeller, that PS 9201 be approved with the following conditions of approval: 1) The parcel split shall be per plans date stamp received by the Town on January 3, 1996; 2) Despite the narrowness of the lot, schematic building plans submitted to the Commission date stamped January 3, 1996, indicate that a building design is feasible which would allow Code parking in a manner that is not awkward nor would it create traffic hazards; 3) This condition was deleted, 4) That a single driveway (common access) will be

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provided between AP Nos. 6-201-02 (6-42 Red Hill Avenue) and 6-201-04 (60 Red Hill Avenue). and 5) A soils report will be required with any new construction prior to issuance of a building permit. Such soils report shall specifically evaluate the stability of the slope area at the rear of the lot and any recommendations shall be incorporated. Ayes: All.

1. V-9553 Michael and Mary O'Brien, 40 Mountain View Avenue, A/P 5-223-17, rear yard variance to construct a garage, office and master bedroom within 14' of the rear property line (20' required); on property located within the R-1 Zoning District

Planner Lisa Wight said these applicants have taken a second look at their plans per the Planning Commission's concerns about the design on the flat lot. The applicants have decided that the plans submitted in December are their best configuration. The neighbor still does not support the addition. The applicants want to push the structure out toward the front and side property lines, although the variance is only required for the sideyard addition. Staff cannot support this application as there are no special circumstances to warrant it. The house doesn't conform to current code requirements and a solid wall would be moved closer to the neighbor. Staff feels an alternate design would be possible.

Chairman Israel asked Ms. Wight how the definition of where the front yard is on this property changes her feeling about the project. Ms. Wight said the front yard definition would not change her opinion as the house already encroaches on all sides.

Michael O'Brien, Applicant, said his family needs more living space, and they would like to enclose their carport as well. During the design phase of the project, they learned their neighbor would object to any work done on the house. Their rear yard is actually their sideyard. This work is not detrimental to their neighbor and they are willing to construct a fence to encourage privacy. Their addition would not affect the neighbor's light either. Since December they have been reviewing other alternatives and none have worked out as well. They could do a second story without a variance, but it would be more intrusive to their neighbors. He believes they have special circumstances because of the rear/sideyard question.

Linda Roospay, 30 Rivera, said her mother lives next door to this house and was not contacted about the addition. They feel their privacy and light are an issue. The house already has an existing garage that is unused. The carport she feels was built illegally by a previous owner and is rarely used. Two sides of the house are already outside the setbacks, and with this addition three sides are out of compliance. She is concerned about the height of the garage. She noted that the master bedroom was included on the agenda in error.

Michael O'Brien, Applicant, asked if any other neighbors are present who object. There were none. He said he spoke with these neighbors ahead of time and invited them to look at the plans and comment.

Commissioner Duys asked about the status of the "illegal" carport mentioned by the neighbor. O'Brien said that it was not an issue when he bought the house.

Commissioner Sargent said he has a hard time because of the front/side definition problem. He feels that it is the definition of the front yard that is creating the problem. This project is an improvement to the house and should be an improvement for the neighbors as it is enclosing the carport and may not be changing the neighbor's privacy. He would vote for approval if findings could be found.

Commissioner Harle said he would like to see the ordinance changed. The neighbor's house is also non-conforming. He is inclined to grant the request for a variance due to the shape and peculiarity of the lot, which make it impossible to conform to current rules, but it does conform to rules in force at the time it was built.

Commissioner Wittenkeller said he is concerned with requiring a setback and the front/sideyard question. He is sensitive to the neighbor's concerns. He feels the project is well designed, but not overpowering. In the eyes of the current residents, it is a problem and he feels he must respect that. He cannot support and would go along with the staff recommendation.

Commissioner Duys said it is clear that the house was built to conform to having Mountain View in the front, but now Rivera is the front. The design of the house is nice; she doesn't see a privacy problem. It appears that the neighbors themselves have a zero foot setback to the east. It would be more pleasing to have the carport enclosed. She asked about the garbage enclosure; perhaps eliminating it would be nice for the neighbor.

Chairman Israel said he doesn't feel the past should be held against these applicants. He supports having the carport enclosed, but would like to see the garage roof stepped down to lessen the height. He doesn't see the impact on the adjacent neighbor. He suggested the commission could vote it down without prejudice and send it to the Town Council. Or, as an

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alternative, the item could be continued and reviewed with the idea that the front of the house is on Rivera.

M/s, Wittenkeller, to deny the variance. No second was received and the motion died.

Chairman Israel said a house nearly twice this size could be allowed on this lot without a variance. An addition done within the rules might have a worse affect than one done with a variance.

Commissioner Sargent said that perhaps mature landscaping could mitigate the reduction in privacy and provide more screening.

M/s, Israel/Wittenkeller, to deny V-9553 without prejudice, forwarding the comments of the Planning Commission to the Town Council, should the applicant choose to appeal. Ayes by roll call: Duys, Wittenkeller, Israel, Sargent, Harle.

**2. 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."**

Planning Director Chaney said this item is for discussion only. The issue is trying to provide more definition to kitchens in second units. Currently a separate cooking facility is the one element that makes or breaks a second unit. The Planning Commission asked staff to evaluate what other communities do. Ms. Chaney said most communities use separate cooking facilities in their definitions and are looking for something better. Corte Madera has a tighter definition but it is not tried and true. In San Rafael a kitchen is a sink and significant cooking appliances, including, but not limited to, a range, oven or microwave oven, or a hot plate. To allow for a wet bar, Corte Madera deleted "sink" from the definition. Another idea is to permit only a half bath in a detached unit or to permit kosher kitchens through a use permit.

Commissioner Wittenkeller asked if the problem is that the kitchen is being used by a renter, thereby requiring additional parking, etc. He feels we should focus on the use, not the facility. Trying to enforce a use through building codes is difficult. He feels the Commission should think about other ways of enforcement.

Commissioner Sargent said that through resales, addition plans, and complaints the Town will learn about these units.

Chairman Israel said the Town needs something to define what is not allowed so the complaints can be responded to fairly.

Commissioner Sargent said he has a laundry room with a sink and a stove so he would be out of conformance. He feels a combination of three kitchen appliances would be better than a combination of two.

Commissioner Wittenkeller said he likes Ventura's definition: a separate, complete housekeeping unit with kitchen, sleeping, and full bathroom facilities, located on the same lot in the R-1 zone.

Commissioner Harle said these are the same issues argued over 25 years ago when the second unit ordinance was enacted. At that time the kitchen was the one thing that really tied down a second unit.

Commissioner Wittenkeller said the addition of uses further defines second units.

Chairman Israel said the new definition incorporates the values of the '90s that people might want some of these amenities just for themselves, not as a second unit.

Ms. Chaney said if no one complained about a second unit, it would be all right. But people do complain and that makes this a problem. Other problems have surfaced, not with renters but with family employees or helpers. Kitchen facilities become the crux of the issue. Even having other family members in second units can be opposed.

Chairman Israel said perhaps we could add a second entrance to Ventura's definition, plus the combination of the three kitchen elements.

Commissioner Wittenkeller agrees with Chairman Israel. He would like to investigate beyond physical facilities to the monitoring of illegal units. Perhaps Town Attorney Roth would have an opinion and could come discuss the issue

Ms. Chaney said the Town's approach to second units is to try to get them at the source. There are approximately 200 second units in San Anselmo. Only neighbor complaints and

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property resales bring illegal units to light. The Town encourages the legalization of second units where there are still spaces available in the neighborhood.

Commissioner Harle said he likes the suggestion of using Ventura's language with the kitchen defined as a combination of three elements, but he wouldn't want a separate entrance to be added to the definition.

Commissioner Harle said a lot of people get legal second units for family or personal reasons, and then the reasons change and they don't want to rent the unit out. Ms. Chaney said they encourage people in that situation to let the Town know so they can void the unit so it can be reused. However, people tend to want to hang on to those use permits.

Ms. Chaney said there are four areas discussed that would be included in the definition of a kitchen in a second unit: sink, refrigerator, cooking facilities, and food preparation areas. Three of the four would constitute a kitchen. She will take the information from tonight's discussion and continue working on this.

**F. GENERAL DISCUSSION**

Ms. Chaney said Jo Julin submitted a proposed resolution establishing a "comprehensive review policy", to remedy the piecemealing of improvements to a single property by the filing of sequential discretionary permit applications a few months or weeks apart, fragmenting the review process and prolonging the amount of time devoted to a given property.

Chairman Israel said he could see how this could be burdensome when a person doesn't want to head into the whole process at once. We should be careful how we word the requirement and on what kinds of applications it would be used. He would like a better evaluations of what applications it would apply to and what problems we have had specifically in this area.

Commissioner Sargent said he would support this concept for lot splits since the ones the Commission sees were done in the past and the Commissioners have no idea what the applicant originally had in mind.

Ms. Chaney said she asks people for a proposed building pad and access information when they come in for lot splits.

Commissioner Harle said a lot split on Oak Avenue and Echo Court is an example of one that had great impact. The nearby neighbors bought their house based on the wonderful privacy. No analysis was made on its affect on neighboring properties when the split was approved.

Ms. Chaney said this does raise the question of Commissioners taking a tour of projects that have been approved. She asked each of the Commissioners to look at their calendars; perhaps a Saturday or Sunday in March or April would be good to take a look at some of the projects that have been approved.

Commissioner Harle said approvals are often done out of perspective.

Commissioner Sargent feels that Ms. Julin's recommendation should be taken in regard to lot splits.

Once a lot is split, it is going to be built on.

Chairman Israel said he disagrees as this can be done in the design review process. He feels applicants should know where the building envelope will probably be, pinning it down during design review.

Commissioner Wittenkeller said that you will get spec houses if you make this requirement.

Ms. Chaney suggested that she look into some cases that will give the Commission some specifics to work with. She will also bring back the findings that can be used for denial.

Commissioner Wittenkeller said he would assume that any lot split would have to confirm to Town's regulations. Trying to do this all at one time could be an economic burden, plus the players can change, as can the neighbors as time passes.

**G. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL**

Ms. Chaney said that the applicants at 107 Brookside have appealed to the Town Council. Ted Posthuma will be coming to the next meeting.

**H. ADJOURNMENT TO Tuesday, February 20, 1996. Meeting time will be 7:30 p.m.**

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M/s, Duys/Wittenkeller, to adjourn the meeting at 10:20 p.m. Ayes: All.

Debbie Stutsman