

The Regular Meeting of the San Anselmo Planning Commission was called to order by Chairman Dan Goltz at 8:00 p.m. in the City Hall on May 5, 1975. Representing City Staff: C. R. Leitzell, Planning Director; T. J. Robbins, Associate Engineer/Planner; Hadden Roth, City Attorney.

1. ROLL CALL

Commissioners Present: Ainsworth, Goltz, Fairchild, Ragan, Strassman

Commissioners Absent: Bolles, Fischbein

2. APPROVAL OF MINUTES OF APRIL 21, 1975

M/S Ragan, Strassman, the minutes of April 21 be approved as amended. Passed unanimously.

Amendment: Pg. 1, Correct the second sentence of the wording to be added to the minutes of March 24. "The General Plan would not be changed before the hearing, but their comments would be accepted and considered before final adoption."

3. MATTERS FOR CONSIDERATION

Commissioner Ainsworth announced that he had missed filing his financial statement with the County. It was due April 30, 1975. As a result he would not sit on the Commission this evening except to provide a quorum.

A. City Attorney to review procedures on granting/denying use permits, variances.

Attorney Roth was present to review some of the motions made in the past by the Commissioners on variances, use permits, etc.

The Courts now require that when considering applications the Commission must articulate in facts the results of the deliberation. Repeating the Code wording is insufficient: That leaves a step out; that of evidence, finding of facts and the conclusion.

A variance can only be granted if the property is deficient in some physical way. A variance may not be granted if the hardship is self-imposed. All criteria listed in Section 10-3.2102 of the Municipal Code must be met. The hardship specifically relates to the property. Property rights mean it is something the applicants needs, but, if it is detrimental to the neighborhood, then the Commission must balance between social good and individual needs. Social good must outweigh the individual needs.

The Commission must use common sense and talk facts when making the motions. Exceptional circumstances which the Commission think entitle the applicant to a variance and/or a statement of any social detriment should be stated in the motions.

Commissioner Ainsworth questioned whether the Commission could grant GPC Use Permits after building permits had been issued for the 30th dwelling unit as mentioned in the General Plan.

Hadden Roth felt that growth control would be acceptable in the courts. The figure of 30 dwelling units per year could be used until the moratorium ended. Another control would be with the proposed Residential Review Board. If the Commission had an idea of what number would be used by the Review Board, the Commission could use that as a basis for approving or denying a Use Permit.

If the Commission decided to have a number of dwelling units stated in the General Plan and the courts decided it was legal, then an ordinance would be drafted to permit this.

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Messrs. Roth and Leitzell left the meeting at 9:00 p.m.

4. OLD BUSINESS

A. Public Hearing: Proposed Tree Ordinance

M/S Ragan, Strassman that the hearing of the Proposed Tree Ordinance be continued until Monday, June 2. Passed unanimously. Commissioner Ainsworth abstaining.

5. NEW BUSINESS

1. U-405/VAR-612 - Dr. William Scalapino, A/P 7-095-30 (between 248 and 250 Redwood Road), application for Use Permit to construct single family dwelling and variance for access by easement.

Applicant was present and had reviewed Staff Report.

Mr. Robbins stated that the parking deck did not encroach on the easement, however, the approach ramp to the parking deck did encroach. The City does not recognize the easement, but if the variance was approved, the easement would also be approved.

Dr. Scalapino stated that the easement, at the time he bought the property, was recorded.

Mr. DePrado, 248 Redwood Road, stated Dr. Scalapino did have a recorded easement across his property. Mr. DePrado felt the problem with the lot was the narrow entrance. He also stated that in 1969 Mr. Leitzell & Morris Finisy wrote letters to Dr. Scalapino suggesting they work out some common solution to getting into both lots. There was never any response so he went ahead and built his home.

As the parking area of 248 Redwood Road was now situated, Mr. DePrado stated they would have to move their car up to permit access for Dr. Scalapino. This would reduce one parking area. Mr. DePrado was also concerned about a large parking deck too close to their bedroom window.

Dr. Scalapino stated he did respond to Mr. Finisey's letter and he indicated in 1973 he would be willing to pay for his portion of this encroachment.

Mr. Lewis of 178 Floribel Avenue was concerned about diverted water/streams which would cause undermining to the other houses if this house was built. He had experienced a lot of slippage on his lot.

Mrs. Jordan, 15 Allyn Avenue had a similar problem as Mr. Lewis with runoff.

Mr. Chemotti, 180 Floribel Avenue felt that the removal of any vegetation would cause more water damage to his house. During construction the rocks would roll down the hill. His privacy would also be disturbed if any of the trees were removed.

Donald Pantius, 182 Floribel Avenue, questioned whether a geologic study had been made of this property. Chairman Goltz responded that to his knowledge no geologic study had been made as yet.

Commissioner Ragan did not agree with the geologic rating of "2 - mostly stable" on this lot. He felt there were definite geologic hazards as well as Circulation Element conflicts.

The participating Commissioners agreed Circulation was a major constraint on this lot--The width of the street and the number of trips generated by each dwelling.

M/S Fairchild, Ragan, to deny U-405, application for a GPC Use Permit to construct a single-family dwelling on A/P 7-095-30 based on the fact that there is a substantial probability that this proposed use will be in conflict with geologic hazards and circulation elements of the General Plan based on existing sliding, visible amounts of water seepage and problems with width of road and additional traffic flow on Redwood Road and Floribel Avenue whichever access Dr. Scalapino chooses to use as ingress and egress.

Motion carried: Ayes: Fairchild, Goltz, Ragan, Strassman
Nayes: None

Abstain: Ainsworth

M/S Ragan, Strassman, that VAR 612, application to use easement for access for A/P 7-095-30 be denied on the grounds that U-405 to which it directly applies has already been denied.

Motion carried: Ayes: Fairchild, Goltz, Ragan, Strassman
Nayes: None
Abstain: Ainsworth

2. James Otterlee, 15 Humboldt Avenue, 0' front and 1.5' sideyard setback to permit a car deck

Chairman Goltz stated that since he was the applicant's architect and would be representing the applicant he would turn the meeting over to Vice-Chairman Strassman and not participate as a Commissioner.

Mr. Goltz, representing the applicant, stated the area was very crowded and did not have any parking.

Commissioner Ainsworth asked for an explanation of an Encroachment Permit and whether this would be a problem to obtain with respect to the approval of this application. Staff explained and felt there would be no problem in obtaining an Encroachment Permit.

Commissioner Ragan felt the variance was implementing circulation as it would be taking a car off the street.

M/S Ainsworth, Ragan, to approve VAR-608 for 15 Humboldt, A/P 7-023-02 and 03, application for 20 foot frontyard variance and 1'6" sideyard variance and a 2' variance from required parking width to construct a single car parking deck 0' from the front property line on the grounds that a site hardship exists in that no other parking area is available on this particular lot; that this parking deck is necessary for appreciation of substantial property rights and that this variance is a benefit to people and property in the neighborhood in that the provision of off-street parking contributes to public safety. Also, move that the design be referred to Design Review Committee.

Motion carried: Ayes: Ainsworth, Fairchild, Ragan, Strassman
Nayes: None
Abstain: Goltz

3. VAR 609 - John and Patricia Sullivan, 130 Crescent Road, A/P 7-221-32. Application for 8' rearyard and 6'6" sideyard setback to permit the relocation of the present off-street parking area.

Applicant was present and had reviewed Staff Report.

Applicant stated he bought the property about a year ago. He felt it was necessary asking for this variance as there is a safety problem. Applicant stated you could not see the traffic on the street until you backed out into the street. Once you

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get out there, there is nothing you can do. For this reason, he was proposing a new parking spot. He had discussed this application with his neighbors and they had no objections.

Commissioners Fairchild felt that while there was a definite problem with safety, her own observations lead her to believe that at the proposed parking spot they were actually going faster. She was not sure the proposal would actually be better.

Chairman Goltz questioned what would become of the present off-street parking space. Applicant stated he would probably remove it.

M/S Ragan, Strassman, that VAR-609 for John Sullivan, 130 Crescent Road, A/P 7-221-32 application for a 12' rear yard variance and 5'6" side yard variance to construct a ground slab for parking be approved on the basis that a hardship does exist at the presently provided space because of steep slope which creates a safety hazard both to occupant and residents of the community and that the relocation of the parking area will improve the safety problem and will not be detrimental to people or property of neighborhood.

Motion carried: Ayes: Fairchild, Goltz, Ragan, Strassman
Nays: None
Abstain: Ainsworth

4. VAR-610 - Ned Dillon, 89 Woodside Drive, A/P 5-273-03;
Application to construct a single family dwelling with a 0' front yard and 6' side yard setback.

Applicant was present and had reviewed Staff Report. He was in agreement with the Staff Report and stated he would withdraw his request for a 6' side yard setback.

Chairman Goltz and Commissioner Fairchild felt Condition #2 of the Use Permit, which stated that applicant "Leave existing vegetation on the ancient slide area undisturbed" had not been met. She felt she would be happier about granting a variance on the carport if the applicant would resite his house away from the slide area and away from the trees.

Mr. Tim Moore, 93 Woodside questioned whether the lot had been inspected by a soils engineer. Commission informed him this was a requirement before the building permit was issued.

Mr. Larry Terzian, 25 Woodside Court stated he would like to see the applicant get the value out of his lot, but he did not want any structural damage to his lot. Mr. Terzian also mentioned there were two empty houses on Woodside, and if this house was being built for speculation there might be three.

Sharon Asbell, 17 Woodside Court was anxious for the house to go before Design Review. Applicant stated he had no objection to going before Design Review.

Mr. Robbins asked the Commission to ask the applicant to remove the roof of his carport.

Commissioner Strassman felt the carport should be reviewed by Design Review. He personally did not have any objections to a roof that close to the street and felt he would rather see a roof than a car.

M/S Strassman, Ragan, that VAR-610 for Ned Dillon at 89 Woodside A/P 5-273-03 for a 20' front yard variance to construct a single family dwelling 0' from the front property line be granted based on drawing dated April 20, 1975 on the basis that a hardship does exist in providing necessary parking area in any other location without further variance due to steep slope and that variance is necessary for appreciation of substantial property rights and that it will allow reasonable development of a legal lot and while there may be some detrimental visual effect due to nature of this detrimental effect will not be substantial; and further move that the design of the carport be referred to the Design Review Committee with specific request that they consider the height of side retaining walls so that site line for vehicle parking is kept as open as possible.

Tie vote: Motion failed. Ayes: Ragan, Strassman
Noes: Fairchild, Goltz
Abstain: Ainsworth

5. VAR-611 - Robert P. DeVito, 1 Freda Lane, A/P 6-119-15; Application for 4' sideyard setback on the north side; and a 4'10" sideyard setback on the south side to permit the construction of three bedrooms, 1 bath addition on lower level with garden room and additional deck area on main floor level. For Correction Page 57

Applicant was present and had reviewed Staff Report.

Mr. Jim McDonald, applicant representing property owner, stated he felt the topography made this a reasonable request.

There was no one in the audience to comment adversely on this. Mr. Richard Symons, 15 Alto Avenue, stated he had reviewed the plans and was in favor of this application.

M/S Ragan, Strassman, that VAR-611 for Robert P. DeVito, 1 Freda Lane, A/P 6-119-15, application for a 4'10" south sideyard variance and a 4' north sideyard variance and a 13' rearyard variance to construct an addition to a single family residence, per drawing by Wagstaff and McDonald, dated April 18, 1975, be approved for the reason that by virtue of the lot area being only 5,631 s.f. and because of the shape of the lot, its theoretical corner location severely restricts the buildable area and the variances requested allow construction on the only logical places on the site.

Further, while the requested addition exceeds the 50% of the existing area, an EIR was required and Negative Declaration issued, and there has been no appeal to this decision.

This variance permits applicant enjoyment of property rights and is not prejudice to welfare, interest of neighborhood or of the City San Anselmo.

Further, the Commission would direct Staff to prepare a memo for the City Council recommending consideration of the abandonment of Freda Lane as a "public way" since designation of "public way" is certainly not in the best interest of the Town of San Anselmo.

Chairman Goltz stated he agreed with the motion, especially the abandonment. He did not agree with the 4' north sideyard variance and asked Commissioner Ragan if he would consider reconsidering his motion. Commissioner Ragan chose to leave it as it was.

Commissioner Strassman suggested the following amendment:

Move that in regard to the 4' north sideyard variance while we cannot make the finding that there are extraordinary circumstances or conditions which apply to this specific variance, the sideyard variance as such are intended to provide privacy and open space between structures on adjacent lots which condition does not pertain to this case.

Motion died for lack of second.

Motion carried as first presented:

Ayes: Fairchild, Goltz, Ragan, Strassman
Nays: None
Abstain: Ainsworth

M/S Ragan, Strassman, we reconsider my motion. Passed unanimously.

M/S Ragan, Strassman, that the portion of my motion regarding Freda Lane be removed from the motion. Passed unanimously.

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M/S Ragan, Strassman, the Planning Commission direct the Staff to submit to the City Council a memo recommending that the City Council consider abandonment of Freda Lane as a "public way" since such a designation serves no useful purpose to the Town of San Anselmo. Passed unanimously.

6. VAR-613 Carl P. Andersen, 978 San Anselmo Avenue, A/P 7-113-10 Application for a 13' frontyard variance.

Applicant was present and had reviewed Staff Report.

Commission explained to applicant that if he abandoned the parking space in the front he would not need a variance. This was agreeable to the applicant.

M/S Ragan, Fairchild that VAR-613 for Carl Anderson, 978 San Anselmo Avenue, A/P 7-113-10 be referred back to the applicant for further study between applicant and Planning Division.

Motion carried: Ayes: Ainsworth, Fairchild, Ragan, Strassman
Nays: None
Abstain: Goltz

6. ADJOURN

M/S Ragan, Fairchild, to adjourn to the Public Hearing on the proposed General Plan. 12:30 p.m.

DAN GOLTZ, CHAIRMAN
SAN ANSELMO PLANNING COMMISSION

By *Catherine Carpenter*
Catherine Carpenter
Planning Secretary

CC/tf