

TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF SEPTEMBER 11, 1989

The regular meeting of the Planning Commission was convened at 8:00 p.m. in the Town Council Chamber by Chairman Sias. Staff present: John Kottage, Director of Public Works and Planning.

A. ROLL CALL

Commissioners present: Harle, Hayes, Julin, Kanis, Yarish
Sias

Commissioners absent: Kroot

B. CONTINUED PUBLIC HEARINGS

1. V-2304/A-8902 - Jef Pedersen, 16 Ivy Lane, A/P 7-064-55, design review of a new single family dwelling; a 20 foot frontyard variance for retaining walls and a parking area to be within 0 feet of the front property line (should the variance be granted, an encroachment permit will be required from Town staff for the parking to extend onto the right of way (not the paved portion of the roadway); an 11 foot frontyard variance and a 20 foot rearyard variance for a three story dwelling to be within 9 feet of the front property line and within 0 feet of the rear property line; a 7 foot frontyard variance and a 5 foot rearyard variance for open decks to be within 7 feet of the front property line and within 9 feet of the rear property line; and a third story variance. The dwelling is proposed to have a 2 foot roof overhang - CONTINUED TO OCTOBER 2, 1989.

2. Z247 - Jack and Karen Doherty and Henry N. Battjes, 46 Mariposa Avenue, A/P 7-284-29, rezoning from Specific Planned Development for 12 low income elderly persons to Specific Planned Development for a residential care facility for 24 elderly persons, and the initial environmental review - CONTINUED TO OCTOBER 2, 1989.

C. PUBLIC HEARINGS

1. U-629/U-633 - Lenny Lerner, 1535 Sir Francis Drake Boulevard, A/P 5-153-01, review of current proposal for two canopies on the west side of the building.

The applicant was present.

Kottage presented the staff report.

Commissioner Yarish asked if design review is required for this zone. Kottage affirmed.

Mr. Lerner said his initial drawing seemed imposing and would cost approximately \$4,800. Therefore he is suggesting scheme "B" which is a prefab structure that will attach to the building and can be rolled back when not in use. The color preferred is gray and blue which will blend in with the building.

Commissioner Kanis asked if the awning would be rolled up at night. Mr. Lerner said the awning will only be rolled out when it is being utilized. The canopy comes in 6', 8' or 10' widths.

Commissioner Yarish was not sure what it would look like because there are no drawings indicating what is proposed but he has not changed his mind since the previous meeting. He would rather have it in the rear of the building or not at all.

Commissioner Harle finds the scheme "B" proposal unobjectionable and unobtrusive.

Commissioner Hayes asked if there were to be sides on the awning to keep the sun out. Mr. Lerner said he is not proposing sides, although it can be purchased at an additional cost.

Commissioner Kanis did not like the color proposed for the awning and did not want to have anything hanging from the sides.

Commissioner Julin preferred to see solid colors used for the awning. Her concern was that the Commission will see another proposal in the future for additional awning to cover the west. She noted that the bus was still on the premises and wondered when it would be removed.

Commissioner Sias said the awning should blend in with the surrounding area and is afraid it does not work with the residential area. In addition, there is not information submitted on the design. He also wonders why a design review is being considered as part of a use application. He was more in favor of putting the awning to the rear of the building.

Commissioner Julin noted that it was previously decided that vehicles were not to be parked to the rear of the building and if the Commission now is thinking of changing their minds, she would like to have further discussion on the issue.

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Mr. Lerner suggest a continuance so he could supply colored photographs and other information pertaining to the awning.

M/S Julin, Yarish, to continue U-629/U633 - Lenny Lerner, 1535 Sir Francis Drake boulevard, A/P 5-153-01, until the meeting of October 2, 1989 for the purpose of noticing Design Review and obtaining additional details depicting scheme "B" in the form of a brochure and as shown on plans dated 7/1/89. Motion unanimously passed.

2. V-2300 - John Paletta, 903 San Anselmo Avenue, A/P 7-114-11, a 20 foot rearyard variance and a 5 foot west sideyard variance for the remodel and reconstruction of a one car garage within 0 feet of the rear property line and within 3 feet of the west side property line; a 6'9" east sideyard variance, a 6" east sideyard variance, a 9 foot rearyard variance, a 16'6" rearyard variance, and a 16' frontyard variance for architectural trellis extensions to be within 5'3" of the east side property line; within 11'6" of the east side property line; within 11' of the rear property line, within 16'6" of the rear property line; and within 4' of the front property line; a 2'6" frontyard variance for a bay window extension to be within 17'6" of the front property line; a 5'2" foot rearyard variance for garbage can and hot water heater encloses to be within 14'10" of the rear property line; and a 4' width variance for two parking spaces to be substandard in width measuring 8'8" each - AFTER THE FACT.

Art Chartock, the applicant's architect, was present.

John Kottage presented the staff report, noting that this is a continuation from the meeting of August 21, 1989 at which time the Commission asked for "as built plans".

Mr. Chartock said the major concern at the conclusion of the last meeting was related to parking and they are willing to remove the garage door and return the garage to its original state. With regards to the width of parking, they would be willing to remove the railing between the wall but would like to keep the back wall because it houses an electrical panel for lighting. They have submitted "as built" plans as suggested by the Commission. With regards to the bay window and trellis, they do not feel they are detrimental to the neighbors and therefore do not want to remove them. The garage in the rear is as originally proposed, with the exception of the washer and dryer. They feel this is an advantage for the tenants. Mr. Chartock said the changes were made without his consent but with the verbal consent of the Building Inspector and the applicant. With regard to the kitchen window facing the neighbors living room, it is typical in urban areas for windows to face each other. The window is screened by trees but is also willing to install and awning or tinted glass as additional screening.

Bill Permar, 113 Madrone, said that Mr. Paletta came before the Commission in October 1988 and received approval for his variances, and has subsequently built something other than what was approved. He would like to have the side wall be removed as it is virtually impossible to drive in the garage. In the area of the washer and dryer, he would like to see the north wall removed to where the fence is. On pages 7.4.1 on the drawings submitted that refer to "original" really mean "currently". His major concern has always been that there could easily be another living space could be installed in the garage. Mr. Permar also requested that the kitchen window either be removed or opaque because it looks directly into his house.

A resident in the area said the garage is inaccessible because it is too small to handle two cars. The front trellis is unnecessary because the area is very narrow and could cause a potential hazard. She admitted the projects looks attractive on San Anselmo Avenue but the impact is on the residents on Madrone Avenue.

Jean Arnold, 108 Madrone, said she bought her house with the assumption that the Palatta project was going to be constructed a certain way and now it is different. She wanted to know what the repercussions were for people who did not follow the rules, thereby building what ever they wanted. Also, is it possible for the Town to monitor that what has been approved during planning could be enforced in the Building Department.

Planning Director Kottage explained the Planning and Building Department process.

David Patton, Laurel Avenue, wanted to know what the standards were for approving variances. He asked if aesthetics and density were issues. He felt this project was very attractive but over building of the property.

Kathy Day, 119 Madrone, agreed with the comments of her neighbors with regard to the work being performed without the appropriate approvals, and was equally concerned about there being three meters on the site.

Mr. Chartock said they would be willing to remove the door in the detached garage although the doorway was originally there along with the window. He said he did not want the Commission to be prejudiced because the building has already been constructed.

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Commissioner Yarish felt the garage door should be removed and because of the narrow width between the cars, it would be a good idea to eliminate the interior partition between the two parking spaces. He did not feel the kitchen window was a planning issue as it was within the setbacks.

Commissioner Harle thought the main concerns from the neighbors were that parking continue to remain parking and therefore they are asking that the parking area can not be used as storage or another unit. He was in agreement with the neighbors that the garage partition and door be removed and questioned the need for three meters. However, he felt the bay window, trellis and fence enhanced the project. He did not think the placement of the kitchen window was a concern of the Planning Commission but he asked if the height of the fence required a variance, because it looked like it exceeded 6 feet.

Commissioner Kanis concurred with Commissioner Harle and wondered if a deed restriction could be required for parking.

Mr. Kottage recommended that the deed restriction include that there be only two dwellings on the site. He noted that it is common practice for a separate meter to be installed to accommodate tenant washer/dryers and outside lighting

Commissioner Julin concurred with the comments of her colleagues and asked if the applicant could file a condominium map on this parcel, and if so, would the items the Town is requiring be enforceable.

Commissioner Hayes said the suggestion about removing the garage door was warranted. He had no objection to the enclosures for the water heater, garbage cans, the trellis and bay window however he did not advocate work being done without approval from the Town.

Chairman Sias felt the interior partition in the garage and the garage door should be removed, which would then remove the need for one variance. He was unable to make the findings that the granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner. The original approved plans indicated there was no need for a bay window variance and therefore he did not feel one is necessary now. He would not be able to make the required findings for approval for the garbage can and hot water heater enclosures because of the reasons stated above. He was able to support the trellises because it was a good way to handle the drip irrigation. Chairman Sias thought this project was overdevelopment of the lot because of all the variances that were being requested. With regard to privacy, the design has been changed from what was originally approved and the structure is closer now by the width of the deck and the kitchen window facing into the livingroom of the neighbors should either be removed or opaque. Also, staff should review the height of the fence to make sure no other variances are required.

Commissioner Harle stated that all variances are for the enjoyment of substantial property rights of the petitioner and he felt this was a better design than originally proposed, therefore he could support the application.

Bill Permar said that in scheme 4.2 of the drawings, it looked like a point of the deck was beyond the setback and the Commission should also take that into consideration.

Mr. Kottage said that staff would have to look into that matter.

Commissioner Hayes felt it was important to know if the deck and kitchen also required a variance prior to making a decision on this application.

The consensus of the Commission was to proceed with what was before them and have staff look into the possibility of the deck and the fence requiring additional variances.

M/S Yarish, Harle to approve V-2300 - John Paletta, 903 San Anselmo Avenue, A/P 7-114-11, a 20 foot rearward variance and a 5 foot west sideyard variance for the remodel and reconstruction of a one car garage within 0 feet of the rear property line and within 3 feet of the west side property line; a 6'9" east sideyard variance, a 6" east sideyard variance, a 9 foot rearward variance, a 16'6" rearward variance, and a 16' frontward variance for architectural trellis extensions to be within 5'3" of the east side property line; within 11'6" of the east side property line; within 11' of the rear property line, within 16'6" of the rear property line; and within 4' of the front property line; a 2'6" frontward variance for a bay window extension to be within 17'6" of the front property line; a 5'2" foot rearward variance for garbage can and hot water heater encloses to be within 14'10" of the rear property line; and a 4' width variance for two parking spaces to be substandard in width measuring 8'8" each in width on the basis:

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 such 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; specifically that the narrow size of the lot and the attempt to create 2 conforming living units with very limited defined by setbacks has been handled in a way that is not obtrusive that is generally pleasant in appearance and that preserves 4 easily accessible off street parking spaces; and

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2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and 3. The granting of such 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 of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood. This approval is conditioned as follows: 1. no garage door on the garage in the setbacks or car port under the house; 2. the wall between the two spaces in the carport be removed except for approximately a 4' area at the end of the carport; 3. a deed restriction be required on the property stating a) only two living units on the property; b) 4 off street parking spaces as indicated in drawings, be maintained at all times. This is based on the drawings dated 8/10/89 and revised 9/5/89.

Mr. Kottage asked if the opening on the side of the garage as shown on the drawings should remain. Commissioner Yarish said it was not important to him as long as the garage door is removed and there is a deed restriction. Commissioner's Julin, Kanis and Harle felt the opening was not necessary.

M/S Yarish, Harle, an amendment that the hole in the rear end of the garage wall may be omitted considering the absence of the garage door and the deed restriction.

Chairman Sias stated that the deed restriction should be more specific relating to the number of cars in the driveway and garage so they do not use any of the space for storage.

M/S Yarish, Harle, further amend that the deed restriction should state that the garage be preserved for parking and two spaces in the carport be reserved for parking.

Ayes: Julin, Kanis, Harle, Yarish
Noes: Hayes, Sias

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

3. V-2302 - Mr. and Mrs. Patton, 219 Laurel Avenue, A/P 7-161-23, a 5 foot rearyard variance to construct an open deck within 9 feet of the rear property line; and a 7 foot rearyard variance to install a hot tub within 13 feet of the rear property line; and a height variance for a wood privacy screen fence up to 9 feet in height to be constructed surrounding the decks.

The applicant was present.

Mr. Kottage presented the staff report.

M/S Hayes, Julin, to approve V-2302 - Mr. and Mrs. Patton, 219 Laurel Avenue, A/P 7-161-23, a 5 foot rearyard variance to construct an open deck within 9 feet of the rear property line; and a 7 foot rearyard variance to install a hot tub within 13 feet of the rear property line; and a height variance for a wood privacy screen fence up to 9 feet in height to be constructed surrounding the decks for the following reasons: 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 such property of privileges enjoyed by other property in the vicinity and under an identical zoning classification, and the granting of the variance with 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; specifically, adjacent properties have also obtained setback variances recently; and 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner, specifically the applicant has a physical disability that hinders her ability to negotiate several stairs and a long walk, particularly in the morning when n she must use the hot tub. Without direct access from the bedroom to the tub, she would have to walk through the front of the house around to the side to get to the hot tub. Also, since the applicants desire to have fire exits from the bedrooms and the open decks will serve that purpose; and 2. The granting of the variances will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood. specifically, no. 205 has only one window near this proposed hot tub and deck location, and views will be away from this property. NO. 239 is a three story dwelling and has several windows that face this property. It could be considered aesthetically pleasing to this adjacent neighbor to view decks and landscaping rather than what presently exists. The fence screens will provide privacy to both the applicant and the two neighboring properties. This is based on plans dated 6/19/89. All ayes. Motion unanimously passed. Audience advised of the ten day appeal period.

4. V-2303 - Gabriel and Carol Fregoso, 60 Tamalpais Avenue, A/P 7-211-32, a parking variance to allow the two required parking spaces to be substandard in width and length and located within 0 feet of the front and side property lines - AFTER THE FACT.

The applicant was present.

Kottage presented the staff report.

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Mrs. Fregoso said the work was done 3 1/2 years ago and signed of by the Building Department and she did not realize she needed a variance. She questioned staff's measurement on the length of the driveway stating her calculations are 16' not 11'. In any event, none of her vehicles hang over into the right of way.

M/S Harle, Kanis, to approve V-2303 - Gabriel and Carol Fregoso, 60 Tamalpais Avenue, A/P 7-211-32, a parking variance to allow the two required parking spaces to be substandard in width and length and located within 0 feet of the front and side property lines for the following basis: 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 such 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, specifically the extensive landscaping plan that will be violated by moving the parking and that cars normally park in the provided parking area and that they don't over hang the sidewalk; 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner, specifically off street parking; 3. The granting of such 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. This is based on the landscaping plans presented at the meeting tonight. Motion unanimously passed. Audience advised of the ten day appeal period.

D. APPROVAL OF MINUTES: August 21, 1989

M/S Yarish, Julin, to approve minutes of August 21, 1989 with the following amendments: page 4, paragraph 6 and 8, change "diving" to "dining"; page 7, paragraph 8, change wording to read "...to deny the appeal of the Lindelli's from Planning Department's approval of C-501 -...".

Ayes: Hayes, Yarish, Kanis, Julin, Sias
Abstain: Harle

E. ADJOURNMENT

The meeting was adjourned at 11:15 p.m. to the next regular meeting of September 18.


BARBARA CHAMBERS
ADMINISTRATIVE SECRETARY-TECHNICIAN