

The regular meeting of the San Anselmo Planning Commission was called to order by Chairman John F. West at 8:00 p.m. on June 16, 1969, in the City Hall. Representing the City Staff: John T. O'Rourke

1. ROLL CALL

Commissioners Present: Creighton, Gue, Heinecke, Perry, Stuart, West  
Commissioners Absent: Moore

2. APPROVAL OF MINUTES

Commissioner Creighton moved the minutes of June 2, 1969 be approved as read, seconded by Commissioner Gue and unanimously approved.

3. OLD BUSINESS

None

4. NEW BUSINESS

A. USE PERMIT APPLICATION

- (1) U-161 Mario Juarez, application to serve beer in conjunction with restaurant use at 330 San Anselmo Avenue

The staff report was read. Mr. Juarez said he plans to open a restaurant serving Mexican food, and he would like to serve beer also. The restaurant has been in this location for sometime, but there had been no liquor license.

Commissioner West said he could see no objection to the use.

Commissioner Heinecke moved that U-161, application of Mario Juarez to serve beer in conjunction with the restaurant use at 330 San Anselmo Avenue be approved. Motion seconded by Commissioner Perry and unanimously approved.

B. VARIANCE APPLICATIONS

- (1) ADJ. 399 Tor J. Nielsen. Application for a 20 foot Variance in frontyard setback and a 6 foot variance in sideyard setback to construct a carport at 20 Tamalpais Avenue. A/P 7-211-21

Mr. Edward Hageman appeared with Mr. Nielsen. He explained that the occupants of Mr. Nielsen's apartment building complain because the trees drip on their automobiles, and there are numerous leaves that fall on the autos in the summer, and in the winter there is no protection from the rain and windshields frost over. Mr. Hageman said the carport was designed to keep the posts away from the street with a roof overhang to give the impression of floating.

At this point, Commissioner Perry said, merits of the application aside, he would like to say that this is the type of application that he would like to see on all submissions to the Planning Commission -- clear drawings indicating exactly what is requested.

Commissioner Heinecke asked when the apartment building was first occupied, and Mr. Nielsen said May 2, 1967.

Mr. Hageman said there are two covered parking spaces in the building and four in the forecourt. He said they considered the appearance of the carport on the street. He said the building sets back 40 feet from the front property line, and adjacent buildings have only a 12 to 13 foot frontyard setback. He said he could not see how this carport could be detrimental to the neighborhood.

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There was no one in the audience to comment on the application.

Commissioner Perry said he was a little distressed to see the applicant come back at this stage for a variance because the adequacy of the parking was or should have been considered with the original application. He said this is a high density street, and a carport in the frontyard setback would aggravate a closed in area and give a feeling of crowding. He said that he would be willing to consider the two interior parking spaces being covered, and granting a sideyard variance.

Commissioner Gue agreed with Commissioner Perry. He said he might even consider a variance as far into the setback as adjacent buildings, but definitely not all the way to the street.

Commissioner Creighton said he felt as much open space as possible should be retained. He felt perhaps two covered spaces could be allowed, but he felt to enclose more area than that would cut out a certain portion of natural light. He said he would go along with one-half of what is proposed.

Commissioner Perry said he could see no hardship to justify a variance, the only possible hardship is that which might result from the inability to provide shelter for the automobiles for the people on the premises; however, he felt this is not a strong hardship. He said there might be some aesthetic consideration since the carport would probably look better than cars in the open.

Commissioner West said the building itself is a nicely done building. In fact, he feels it is one of the better multiple structures in town. The parking in front, under any circumstances is not a very attractive thing. He said he could not see how to justify granting a variance as there does not appear to be any exceptional circumstance where there would be denial of property rights or results inconsistent with the intent of the ordinance.

Commissioner Heinecke said he did not think a variance could be granted for two cars when there was an application for a four-car carport before the Commission. He felt a new submission would be necessary. Commissioner Perry said he felt the applicant should be given some indication as to whether or not a variance would be granted for two cars.

Commissioner Perry said the Commission could approve the application as it is modified to provide for 2 parking spaces wherein the frontyard setback is required, allowing necessary sideyard setback based on the grounds that to deny it would have results inconsistent with the intent of the ordinance.

Mr. Hageman then asked the Commission to consider a variance to cover at least 3 spaces with the building roof projecting but about three feet beyond Mr. Rollins' apartment to the west and about 2 feet beyond the Bazzetta home on the east.

Mr. Nielsen said that the first winter they were in the apartments they had lost 3 out of 5 tenants because there was no covered parking.

Chairman West asked if any of the Commissioners are prepared to grant a 20 foot frontyard variance. None said they were.

Commissioner Heinecke moved that ADJ. 399, application of Tor J. Nielsen for a 20 feet variance in frontyard setback and a 6 foot variance in sideyard setback to construct a carport at 20 Tamalpais Avenue be denied inasmuch as there has been no showing of a hardship. Motion seconded by Commissioner Perry.

Mr. Hageman then asked if he could amend his application and

request a 4 foot sideyard variance and a 10 foot frontyard variance.

The Chairman asked if any Planning Commissioner wished to so move. No one did.

A vote was then taken on Mr. Heinecke's motion to deny the application, and it was unanimously approved.

Commissioner Heinecke said he did not see any justification for encroaching into the frontyard setback at all. He felt it would be definitely detrimental and undesirable to the area. He stated further he had little sympathy with a two or three year old building since he felt adequate parking facilities should have been taken care of in the basic plan.

The applicant was informed that the application was denied and of his right to appeal the decision to the City Council within ten days.

(2) ADJ. 400 Mr. and Mrs. John H. Poppy. Application for a 6' 10" variance in parking space to construct a storage room in existing garage at 462 Laurel Avenue. A/P 7-131-43.

Staff report was read, as well as a letter from Mrs. Poppy.

Mr. Poppy said he did not realize a permit was needed to build a room in his garage, hence he had started. He said his 20 year old son had returned home to live and badly needed a room.

Commissioner Heinecke said he saw a couple of alternatives to the problem which would not involve a variance; one being to enclose only one parking space within the garage and provide for the other off-street parking space in the area where the Poppy's now park their camper.

Commissioner Gue said he saw no demonstration of hardship.

Mr. Edward F. Owen, 472 Laurel Avenue, said he was a neighbor of the Poppy's, and he has no objection to the application for the variance.

Commissioner Creighton said he did not see where any property owners would be affected by the granting of this variance since it was at the end of an easement. While he felt that it would be better to use only a portion of the garage, and retain one inside space, he did not see that this would accomplish any more off-street parking than many of the neighbors have.

Commissioner Perry said that although in a sense none of the neighbors would be hurt by granting this variance, there were obvious alternative measures available to the applicant, and therefore he could see no hardship demonstrated.

Commissioner Gue moved that ADJ. 400, application of John H. Poppy for a 6' 10" variance in parking space to construct a storage room in the existing garage at 462 Laurel Avenue be denied because no hardship, as defined by the ordinance, has been demonstrated.

Commissioner Heinecke seconded the motion which was approved by the following vote:

AYES: Commissioners Heinecke, Perry, Stuart, Gue, West  
NOES: Commissioner Creighton

Commissioner West commented that there appears to be ample land available for additions to the building in conformity with the

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setback requirements of the zoning ordinance and for that reason it seems clear that there are numerous alternatives available, and therefore, this is not a true hardship situation.

The applicant was informed of the denial of the application and of his right to appeal the decision to the City Council within 10 days.

Mr. Poppy said that while he was disappointed that his variance application was not granted, he did feel pleased that so many of the Commissioners personally took the trouble to come up and look at the situation at his home, and he appreciated the time the Commission had taken.

6. CORRESPONDENCE

None

7. MATTERS FOR CONSIDERATION OF COMMISSION

Commissioner Perry asked that the Planning Commission review in their minds the action taken on ADJ. 398 Mel R. Westenberg. He said that he had made a motion to allow a roof over a cardeck at 36 Sunview Avenue, and the matter had been referred to the Design Review Committee. When plans were submitted to Design Review, the plans indicated siding of woven redwood, and Commissioner Perry said he felt it was the intent of the Planning Commission, and certainly of his motion, not to allow siding in order to maintain the open effect. He said in addition, Mr. Signorelli, Design Review Member and General Contractor, felt the structure encroaches into the public right of way.

The chairman instructed the secretary to draft a memorandum to the Design Review Committee indicating the intent of the motion was to permit a roof over a cardeck, having open rails as required by the building code, but there was no approval of siding or screening, nor a structure encroaching into the public right of way.

The Chairman also instructed the secretary to draft a memorandum to the staff indicating that the Planning Commission did not intend to tacitly approve an encroachment into the public right of way with instructions to the staff to secure such a showing, as it deems proper, to establish that the construction of a roof will not constitute an encroachment in the public way, and in the event that this is not proved conclusively, the staff should either require a survey or that an encroachment agreement be entered into with the property owner to protect the City in the event there is, in fact, an encroachment of any portion of the structure on the public way.

Chairman West announced the resignation of Commissioner Gue, and said the Commission would miss his good judgment and thanked him for a job well done both on the Planning Commission and the Design Review Committee. He had, Chairman West said, made a real contribution to the City.

The meeting adjourned at 9:35.

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JOHN F. WEST, Chairman