

**TOWN OF SAN ANSELMO  
RESOLUTION NO. 3360**

**A RESOLUTION OF THE TOWN OF SAN ANSELMO DECLARING THE  
PROPERTY LOCATED AT ASSESSOR'S PARCEL NO. 7-241-61 (379 OAK  
AVENUE) SAN ANSELMO, CALIFORNIA, 94960, TO BE A PUBLIC  
NUISANCE AND ORDERING REMOVAL OF UNAUTHORIZED  
CONSTRUCTION WORK PERFORMED WITHOUT PROPER PERMITS**

**WHEREAS**, permission to enlarge the existing house at 379 Oak Avenue beyond that approved on September 8, 1992, was denied by the Planning Commission on September 20, 1993. The denial was upheld by the Town Council on October 25, 1994, per Town Council Resolution No. 3283; and

The property owner, none the less, initiated construction on portions of the house at 379 Oak Avenue without the benefit of permits, in violation of the San Anselmo Municipal Code and Uniform Building Code, and a Stop Work order was posted on the property on March 11, 1994; and

The property owner of record was duly notified of the violations and received a Notice of Abatement dated April 10, 1995; and

The Town Council held a duly noticed nuisance abatement hearing on October 10, 1995, and ordered the removal of unauthorized construction to the house at 379 Oak Avenue, adopting Resolution No. 3327, attached as Exhibit 1. At that same meeting, one council member stated he would consider a plan for a small, acceptable porch-type structure; and

The applicant's attorney filed a petition for a writ; accordingly, the Town temporarily placed the nuisance abatement on hold; and

The applicant filed a Design Review Amendment application with the Planning Commission for approval of a project similar to that previously denied by the Town Council; and

On April 1, 1996, the Planning Commission did approve a Design Review Amendment to allow the partially built structure to be completed, as proposed, subject to conditions; and

The Planning Commission action was then appealed to the Town Council within the 10 day appeal period by Council Members Jeff Kroot and Paul Chignell on the basis that the Planning Commission approval was contrary to Resolution No. 3327, regarding abatement of the patio cover/deck structure, and should be reviewed by the Town Council; and

On May 28, 1996, the Town Council held a duly noticed public hearing to consider the appeal, and at that hearing, by a vote of 5-0, granted the appeal of the Planning Commission decision on the basis that a project almost identical to that previously denied

by the Council was knowingly constructed without the benefit of the necessary building and planning permits; and

**WHEREAS**, the San Anselmo Municipal Code defines a nuisance (Section 1-2.03) as being any act which is declared to be a nuisance by the provisions of Part 3 of Division Fourth of the Civil Code of the State, or by any other provision of the laws of the State, or by any ordinance or Code provisions of the Town. In addition, a nuisance includes any thing, building, structure, act, or condition on property lying within or adjacent to the town which renders any property within the Town dangerous or harmful to persons who may occupy or go upon such property within the Town; and, potential health and life safety violations have not been corrected within a specified time frame and the property is in a potentially dangerous condition, and constitutes a public nuisance as set forth in the San Anselmo Municipal Code; and

**WHEREAS**, the following documents were made a part of the official record on October 10, 1995, as follows:

Exhibit A	August 30, 1994, letter
Exhibit B	April 10, 1995, Notice of Abatement
Exhibit C	October 3, 1995, Notice of Hearing
Exhibit D	Plans for an addition at 379 Oak Avenue date stamp received by the Town on October 25, 1994; and

At the October 10, 1995, hearing, the following persons testified: Ann Chaney, Town Planning Director, testified that construction was performed without authorization and that this construction has not been removed by the property owner as requested and that such construction constitutes a health and safety hazard to the public and is in violation of the Municipal Code and Uniform Building Code. Individuals testifying in opposition to Nuisance Abatement action were John Wilson-Bugbee and Theodore Posthuma; and

**WHEREAS**, the following persons addressed the illegal construction at the May 28, 1996, appeal hearing: Ann Chaney, Town Planning Director. Individuals speaking in opposition to the appeal were Jeffrey A. Moss and Theodore Posthuma.

**WHEREAS**, the following persons testified at the July 9, 1996, and August 13, 1996, hearings: Ann Chaney, Town Planning Director and Marcia Duys, Planning Commissioner, Jeffrey A. Moss, David Gladysz, Paul Anderson, Jay Douglas Eggers, Bob Formichi, Glenn Smith, Sarah Nome, Drew McEachern, and Theodore Posthuma.

**THEREFORE, IT IS HEREBY RESOLVED:**

1) That the property located at Assessor's Parcel Number 7-241-61 in the Town of San Anselmo, by reason of the illegal construction initiated following denial of a Design Review application for any addition, done without benefit of building permits, and its safety hazard as delineated in the above documents, is a public nuisance as follows:

- That a reasonably sized addition to the original house had been granted by the Town after numerous public hearings, and yet the property owner initiated construction for

further expansion which had been denied. No planning or building permits had ever been received for this work;

- That the steel frame structure, which the owner now proposes as a patio cover/deck, is similar in size to the previously denied two story addition, and is generally overbuilt for a patio cover/deck; and
- That a second story door was installed without permits which leads to the unauthorized steel frame deck. The deck has no railings and thereby constitutes a safety hazard.

2) That the nuisance consists of an unfinished steel frame structure and second floor exterior door which were constructed without permits. No documentation of the structural stability of this construction has been provided by the property owner.

3) The property owner is directed to cause the removal of all unauthorized construction to the house at 379 Oak Avenue and that said removal be commenced within 30 days from the date of Town Council action adopting this Resolution, and shall be completed within 60 days from the date of the Town Council action. If the unauthorized construction is not removed within 60 days from the date of the Town Council action, the Town Attorney is directed to commence and complete appropriate legal proceedings to achieve the removal.

4) The Town Administrator is directed to cause a copy of this Resolution to be conspicuously posted on the subject property and to mail a copy of the Resolution to the property owner.

5) The property owner or any other interested person wishing to contest the validity of these proceedings in a court of law must do so within thirty (30) days after passage of this Resolution or all objections shall be deemed waived and all legal action thereafter barred.

I hereby certify that Resolution No. 3360 was duly passed and adopted at a regular meeting of the Town Council held on August 13, 1996, by the following vote:

Ayes: Breen, Chignell, Kroot, Yarish

Noes: None.

Absent: Hodgens

  
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Jeff Kroot, Deputy Mayor

ATTEST:

  
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Debbie Stutsman, Town Clerk