

**TOWN OF SAN ANSELMO
RESOLUTION NO. 3397**

**A RESOLUTION OF THE SAN ANSELMO TOWN COUNCIL
SUSTAINING A PLANNING COMMISSION DECISION TO
APPROVE DESIGN REVIEW DR-9717 AND VARIANCE V-9717
FOR IMPROVEMENTS TO PROPERTY AT 61 SAIS AVENUE
(A/P 6-074-30)**

WHEREAS, On June 6, 1994, the Planning Commission approved a Variance raising the height of the existing house six feet (6') at 61 Sais Avenue;

WHEREAS, The owner/applicant, John Geoghegan, never built the improvement allowing the planning entitlement to expire;

WHEREAS, Geoghegan re-applied for the same project on March 25, 1997, and was subsequently heard May, 5, 1997;

WHEREAS, The request was continued to allow notification of a required Design Review and for the applicant to consider objections from neighboring property owners;

WHEREAS, Niz Brown assumed the property from Geoghegan and submitted a new application for a Design Review and Variance on May 21, 1997 to improve the existing dwelling at 61 Sais Avenue. Improvements include raising the first floor above natural grade, addition of a second story, and changing the architectural style of the house which includes a pitched roof, new windows, entrance and siding;

WHEREAS, The Planning Commission heard and approved Brown's application making the following necessary Design Review and Variance findings:

DESIGN REVIEW

The Planning Commission must make the following three (3) findings in order to approve a request for flatland Design Review in the Town of San Anselmo:

- 1. Will not unreasonably impair access to light and air of structures on neighboring properties.*

The proposed structure will not impair light and air from the surrounding structures because of its relation to the azimuth of the sun and separation from the surrounding

properties except for the neighbor to the north (55 Sais) which may experience a decrease in afternoon sunlight along the south side of the property. Trees and brush along the property line presently impair the sunlight.

2. *Will not unreasonably affect the privacy of neighboring properties.*

Because of the separation and vegetation between the subject property and all adjacent dwellings, the proposed dwelling will not unreasonably affect the privacy of neighboring properties.

3. *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.*

The proposed addition will not pose any threat to the health and safety or be detrimental to the neighborhood because the improvement shall be built according to the current adopted building code(s) of the Town. The property is within an established flood zone and will require a flood elevation certificate. However, the current condition of the structure is very poor and may require a structural integrity inspection.

VARIANCE:

The Planning Commission must make two necessary findings to grant a variance, these are:

1. *Due to the special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict interpretation of the controlling zoning ordinance or regulation deprives the property of privileges enjoyed by other property in the vicinity and under an identical zoning classification, and the granting of a 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;*

The odd shape of the lot has been found by the Planning Commission to be a special circumstance to grant a variance.

2. *The Granting of the 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 the property or improvements in such neighborhood.*

The proposed addition will not pose any threat to the health and safety or be detrimental to the neighborhood because the improvement shall be built according to the current

adopted building code(s) of the Town. Also, the current condition of the structure requires a thorough structural evaluation as a result of significant termite, dry rot and water damage.

WHEREAS, Brown's request was heard and approved by the Planning Commission on June 2, 1997 with the following conditions:

1. That the request for Design Review be granted to construct second story addition and associated improvements in accordance with the plans date stamped May 21, 1997, received by the Town of San Anselmo Planning Department with the following revision(s):
 - a) A maximum 20' wide curbcut shall provide exclusive access to the lot. A landscaped divider shall be integrated between main and rear garage driveways; and
 - b) The second story, rear facing windows shall be raised to allow natural light and to preserve the privacy between 61 Sais and 29 Nokomis.
2. A Flood Elevation Certificate shall be provided to the Public Works Director prior to issuance of building permits. If any revisions are required as result of said certificate, applicant shall make those revisions and reapply or resubmit revisions at their cost. If revision significantly alters the proposed design herein, the revision may require further Planning Commission approval.
3. Applicant shall apply for and pay all appropriate fees for building permits, plan checks and inspections.
4. This permit and each condition contained herein shall be binding upon applicant and any transferor, or successor in interest.
5. If construction is not commenced within one year from the date of final action, the permit becomes null and void. However, this discretionary action may be renewed by the Planning Director for a maximum period of one (1) year provided the applicant places such a request in writing to the Planning Director showing good cause prior to the expiration of the discretionary action.

WHEREAS, The approval was appealed by neighboring property owners, Marksbury, Field/Hall, Pey and Buchignani on June 11, 1997 because of several impacts due to the proposed height of the roof and drainage issues; and

WHEREAS, On July 31, 1997, the applicant's representative, the appellants and Town representatives met to discuss the issues concerning drainage and roof height, the following conclusions were made:

1. A two part drainage solution to be administered by the property owner(s) to include:

(a) Onsite drainage solution to direct stormwater flow toward a rear lawn dispersion trench installed below grade to the satisfaction of the project engineer.

(b) If, within two successive rain seasons, the above solution fails to provide adequate drainage for onsite stormwater, a drainage pipe or ditch shall be installed across an adjacent property to the storm drain system. Project shall be a written agreement, such as an easement, which includes route and design of project as well as financial obligation. Agreement shall be recorded with the Marin County Recorder.

(c) If the parties agree to install (b) initially, then solution (a) becomes moot.

2. The applicant does not propose any changes to the roof height or pitch at this time. The proposed building height is 25'9".

NOW, THEREFORE BE IT RESOLVED that the Town Council of San Anselmo upholds the Planning Commission decision approving Design Review DR-9771 and Variance V-9717, subject to the following revised conditions:

1. That the request for Design Review be granted to construct second story addition and associated improvements in accordance with the plans date stamped August 4, 1997, received by the Town of San Anselmo Planning Department;
2. A Flood Elevation Certificate shall be provided to the Public Works Director prior to issuance of building permits. If any revisions are required as a result of said certificate, applicant shall make those revisions and reapply or resubmit revisions at their cost. If revision significantly alters the proposed design herein, the revision may require further Planning Commission approval;
3. The applicant shall pursue a drainage agreement, in accordance with the conceptual solution submitted by Al Buchignani P.E. (dated 08/04/97), with all interested parties including the owners of 55 Sais, 61 Sais, 29 Nokomis and 31 Nokomis. When such an agreement is reached it shall be recorded and forwarded to the Town Planning Department for placement in all applicable property files.
4. Applicant shall apply for and pay all appropriate fees for building permits, plan checks and inspections;
5. This permit and each condition contained herein shall be binding upon applicant and any transferor, or successor in interest; and

6. If construction is not commenced within one year from the date of final action, the permit becomes null and void. However, this discretionary action may be renewed by the Planning Director for a maximum period of one (1) year provided the applicant places such a request in writing to the Planning Director showing good cause prior to the expiration of the discretionary action.

PASSED AND ADOPTED by the San Anselmo Town Council at a specially scheduled meeting held on the 5th day of August 1997, by the following vote:

AYES: Kroot, Chignell, Breen, Hodgens

NOES: None


ABSTAIN: Overberger

ABSENT: None



Jeff Kroot, Mayor

ATTEST:



Debbie Stutsman, Town Clerk