RESOLUTION NO. 3710

TOWN OF SAN ANSELMO
TOWN COUNCIL RESOLUTION NO.

A RESOLUTION OF THE SAN ANSELMO TOWN COUNCIL APPROVING A SECOND UNIT RESIDENTIAL DWELLING AT 125 REDWOOD ROAD, A/P 7-083-03

WHEREAS, an application was initially filed with the Town of San Anselmo on February 19, 2004, requesting approval of a use permit and variances to construct a residential second unit at 125 Redwood Road, A/P 7-083-03; and

WHEREAS, on May 3, 2004, June 7, 2004, and June 21, 2004, the Planning Commission held a public hearing and accepted public comment on the proposal, and thereafter approved the project by PC Resolution number 04-01, and

WHEREAS, on August 24, 2004 and October 12, 2004, the Town Council held a public hearing on the proposal.

NOW, THEREFORE, the Town Council of the Town of San Anselmo does hereby resolve as follows:

I. Findings required for the approval of the Use Permit and Variances pursuant to Sections 10-3.1305 and 10-3.1405 of the San Anselmo Municipal Code are as follows:

USE PERMIT

1. The establishment, maintenance, or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the proposed use or be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the Town.

The proposed 2nd unit use permit will not be detrimental to the neighborhood because it currently exists as an accessory building. Its conversion to a residential second unit will have no detrimental land use effects to the neighborhood or general welfare of the Town. The potential parking impact will be adequately mitigated by providing the necessary parking required by the San Anselmo Municipal Code.

VARIANCES

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

a) Special circumstances exist for the amended variance requesting a 26.5'x26'
accessory building within 8' of the east property line and 5' of the south property
line due to the fact that a variance has already been approved for this building
with a dimension of 24'x26' and the additional 2.5' does not alter the intent of the
approved variance or surrounding impacts.
b) Special circumstances exist for the establishment of a 2nd unit within the south
and east setbacks due to the fact that an accessory building already exists with
approved variances and the establishment of a habitable 2nd residential unit
within that building will not affect exterior land use impacts.
c) Special circumstances exist to allow a retaining wall in excess of 4' in height
within +/- 0' of the front yard and +/- 0' of the south side yard because of the
extreme topography limiting the ability to provide adequate parking.

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.

a) The granting of an amended variance to allow a 26.5'x26' accessory building will
not materially affect adversely the health or safety of persons in the neighborhood
and will not be detrimental to the public welfare or injurious to the property or
improvements in the neighborhood because the additional 2.5' of building length
does not alter the neighborhood impact and will be required to be built in
accordance with the Town Building and Safety standards.
b) The establishment of a habitable 2nd unit use within an existing accessory building
will not adversely affect the neighborhood or be detrimental because it will be
entirely located within the existing building and be required to meet applicable
building codes.
c) The construction of a retaining wall in excess of 4' in height will not materially
affect adversely the neighborhood and will not be detrimental because its
construction will be required to meet all building safety codes and public works
standards.

II. The Use Permit and Variance requests mentioned herein to allow a 689 square
foot second residential unit project are hereby approved in accordance with
the plans date stamped received by the Town of San Anselmo on June 17,
2004 and as amended by parking plans date stamped received by the Town of
San Anselmo on October 6, 2004 except as may be herein modified and subject
to the following conditions:

1. Applicant shall pay all applicable planning processing fees and
building permit fees prior to the issuance of any building permit.
2. The lower floor of subject 2nd unit/accessory building shall be
restored to a setback from Savannah Avenue of fourteen(14')
feet and the existing access way and door to such lower floor
located within the southerly side yard setback area shall be
removed. Said restoration and removal shall be indicated on the
approved building plans and be completed prior to any final
inspection or occupancy.
3. A deed restriction in a form approved by the Town Attorney shall
be recorded limiting the use of the lower level portion of the
existing building as an accessory use. Said deed restriction shall
be recorded prior to any final inspection or occupancy of subject
second residential unit, and shall provide an expedited
enforcement mechanism in the event of violation.
4. Proposed coastal redwood trees and irrigation installations shall
be approved by the Town prior to any final inspection or
occupancy of the second residential unit.
5. The proposed required parking adjacent to Redwood Road shall
be installed prior to any final inspection or occupancy of the
residential second unit. Detailed plans for the parking space and
accompanying retaining wall shall be approved by the Director of
Public Works prior to the issuance of any building permit.
6. A detailed landscaping and irrigation plan providing screening of
the proposed retaining wall adjacent to Redwood Road shall be
submitted to and approved by the Planning Director prior to the
issuance of any building permit for subject project. Such
landscaping shall be installed prior to any occupancy or final
inspection of the second residential unit.
7. Applicant shall maintain all required landscaping in perpetuity
and provide a deed restriction for it in a form approved by the
Town Attorney.
8. If construction is not commenced within one year from the date
of final Planning Commission 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 request in writing to the
Planning Director showing good cause prior to the expiration of
the discretionary action.
9. Applicant shall comply with all requirements of the Marin
Municipal Water District and other utility agency requirements as
applicable regarding this second residential dwelling unit.
10. Applicant shall meet with neighbors at 20 Savannah (Mooers)
regarding landscaping adjacent to Savannah Ave. Plans shall
be approved by the Town Planning Department, and landscaping
installed prior to any final inspection or occupancy.
11. A deed restriction shall be recorded in a form approved by the
Town Attorney preventing any elevated deck constructions along
the westerly side of the residential second unit.
12. Applicant shall at all times comply with all applicable laws,
ordinances, rules and regulations of municipal, state and federal
authorities relating to the installation maintenance, height,
location, use, and operation of improvements authorized herein,
and shall fully defend, hold free and harmless and indemnify the
Town of San Anselmo, its Council, commissions, agents,
officers, employees, and consultants against any and all claims,
costs, expenses, suits, and liabilities of any kind whatsoever, or
actions seeking to set aside, declare void or annul the approval(s) of this project, and including without limitation, reasonable attorney and expert witnesses' fees and costs, arising out of or in any way related to applicant's installation, or operation of the improvements and equipment authorized by this approval and any claim by any person or entity relating to alleged health or environmental effects of the project. The Town and applicant shall promptly notify each other of any such attack, claim, action, or proceeding. The Town will tender defense to the applicant. The Town may assist in defense; and nothing shall prohibit the Town from participating in the defense in any such attack, claim, action or proceeding so long as the Town agrees to bear its own attorneys fees and costs and participates with applicant in the defense cooperatively.

13. Applicant shall correct existing building code violations within subject accessory building/second residential unit prior to any final inspection or occupancy of subject building.

PASSED AND ADOPTED by the San Anselmo Town Council on October 12, 2004, by the following roll call vote:

AYES: Breen, Chignell, Kilkus, Thornton

NOES: (none)

ABSENT: Kroot

Paul Chignell, Mayor

ATTEST: Barbara Chambers, Town Clerk