

**SAN ANSELMO TOWN COUNCIL
RESOLUTION NO. _____
DENIAL OF A DESIGN REVIEW PERMIT, DEMOLITION PERMIT AND
VARIANCES, AND UPHOLDING THE PLANNING COMMISSION DENIAL OF
AN APPLICATION TO ALLOW A REMODEL AND ADDITIONS TO A SINGLE-
FAMILY RESIDENCE AT 9 LAUREL AVENUE**

WHEREAS, on February 4, 2021, Hassan Afrookteh and Brooke Peterson (“Applicants”) file an application for a 536 square foot upper story addition to the existing single-family residence at 9 Laurel Avenue (APN 007-112-11) PRO2021-0014 (the “Project”); and

WHEREAS, the project site is located within the General Plan Single Family Residential Land Use Designation, and the Single-Family Residential Zoning District (R-1); and

WHEREAS, the project necessitated approval of design review for a second story addition, a variance to allow two parking spaces to be created in the north side setback (8-foot side setback required), with one of the two in the front setback (20-foot setback required), a variance to allow an area of pavers in the front setback to be used for an additional, undersized, parking space, a demolition permit to remove more than 50% of the exterior walls (54.3% demolition proposed, which included 25.3% related to the residence and the balance for demolition of an attached garage structure), and a variance to maintain the existing lower level of the structure 15.94’ to 18.97’ from the front property line (20-foot setback required for over 50% demolition); and

WHEREAS, the Planning Commission conducted duly noticed public hearing on April 19, 2021, and allowed all interested persons an opportunity to be heard; and

WHEREAS, on April 19, 2021, the Planning Commission informed the applicant that his proposal to convert the existing garage to an accessory dwelling unit could be approved ministerially with just a building permit and was not subject to Planning Commission review, and only the second story addition to the primary residence required design review and a floor area exception, which they did not support; and

WHEREAS, the applicant subsequently modified the project to remove the proposed garage conversion to an accessory dwelling unit; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on September 20, 2021, to review revised plans for the project at which time the Planning Commission gave all interested persons an opportunity to be heard; and

WHEREAS, the Planning Commission viewed the story poles and reviewed and considered the information contained in the staff reports, application materials, as well as oral and written testimony on the proposed project; and

WHEREAS, the Planning Commission reviewed and considered the 28 sheets of project plans titled "Remodel & Addition 9 Laurel Avenue" dated July 15, 2021; and

WHEREAS, at the conclusion of the September 20, 2021, public hearing to consider the application, the Planning Commission voted 4-1 to deny the application based on the findings in the staff report and those articulated verbally at the hearing, findings which town staff recorded by video and in meeting minutes approved by the Planning Commission; and

WHEREAS, the Planning Commission found the proposed project to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(e), Existing Facilities, and 15270 projects which a public agency rejects or disapproves; and

WHEREAS, on September 29, 2021, Applicants appealed the Planning Commission decision to the Town Council based on a letter by attorney Jahn E. Sharp dated September 28, 2021; and

WHEREAS, the Town Council held a public hearing de novo to consider the appeal on June 14, 2022; and

WHEREAS, staff mailed notice of the Town Council hearing to all owners of property within 300 feet and posted in three public places on May 23, 2022, at least 10 days prior to the hearing; and

WHEREAS the Town Council reviewed the staff reports and attachments, prior staff reports and attachments, the Applicant's shadow study, a Town peer review of the shadow study, correspondence, and project plans, and the Town Council heard oral testimony from the appellant, property owners, and all interested persons; and

NOW, THEREFORE, THE TOWN COUNCIL HEREBY RESOLVES AS FOLLOWS:

Based on substantial evidence in the record as set forth in the recitals above and incorporated herein, the Town Council denies the project and appeal, and upholds the Planning Commission denial of an application for a Design Review Permit, Demolition Permit and Variances to allow for a remodel and addition to an existing single-family dwelling at 9 Laurel Avenue as proposed on the plans dated July 15, 2021, based upon the following findings:

- A. CEQA. The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(e), Existing Facilities, and 15270 projects which a public agency rejects or disapproves.
- B. Required findings for Variance per San Anselmo Municipal Code Section 10-3.1405.
 - 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 the 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.

The parcel is 3,983 sq. ft. in area, which is not a special circumstance applicable to the property since all the lots in the subdivision are between 3,000 and 5,000 square feet in area. The site is generally rectangular in size and located on a flat lot., but the two side property lines are different lengths with the southern property line 72.7 feet and the north property line 78.87 feet, resulting in a slight angle at the front property line. The site has existing parking in the side and rear setback areas. Many sites in the vicinity also have parking in the setback areas. The need for the variance is created not by the special circumstances of the property, but by the design of the project. The applicant is creating the hardship that requires parking in the front and side setbacks as no variance is required to maintain the parking in its current configuration. The Planning Commission has also denied other requests to locate and relocate parking spaces in setback areas. Therefore, based on the above, this finding cannot be made.

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 property or improvements in such neighborhood.*
The existing parking is adjacent to a neighbor's driveway and parking spaces. The proposed parking arrangement would move the parking to the opposite side of the site where it would be unscreened and viewed from adjacent yard area, which is injurious and detrimental to the neighbor's enjoyment of their property. Town staff would require the neighbor to maintain transparent fencing and low landscape materials 36" from the ground in a site triangle to maintain an adequate site distance for vehicles in the new parking area, which could require removal of perennial plants on the adjacent neighbor's site. Granting a variance would allow parking spaces to be located in a setback area where it would be unscreened and in public view, which is detrimental to the aesthetics and character of the neighborhood and public. Therefore, based on the above, this finding cannot be made.

C. Required findings for Design Review per San Anselmo Municipal Code Section 10-3.1506(b).

1. *Is functionally and aesthetically compatible with the existing improvements and the natural elements in the surrounding area.*

The structure has significant impacts on adjacent development and is not functionally and aesthetically compatible with existing improvements and natural elements in the surrounding area. The volume and apparent mass of the structure, combined with articulation and design elements, results in a structure that creates negative attributes of aesthetic compatibility with the surrounding area. The Applicants propose the two story design on the east side of the block where no second story additions currently exist. The design lacks articulation, is bulky, and is out of scale with adjacent

development. Therefore, based on the above, this finding cannot be made.

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

Based on the story poles, project plans and shadow study, the second story addition will have an unreasonable and material impact on light, air, and privacy on neighboring 5 Laurel, 1055 San Anselmo Avenue and 15 Laurel. Studies of existing and proposed shadows show the project will cast shadows on neighbors at 5 Laurel Ave. and 1055 San Anselmo Avenue during some times during the day. Evidence was presented that the project will cast significant shadows on 5 Laurel Avenue, significantly impacting light to existing living spaces. Therefore, this finding cannot be made.

3. *Will not unreasonably affect the privacy of neighboring properties including not unreasonably affecting such privacy by the placement of windows, skylights and decks.*

The project unreasonably impacts the privacy of neighboring properties because the upper-level deck allows views into 1055 San Anselmo Avenue. Additionally, based on the story poles, project plans and shadow study, the second story addition will unreasonably affect neighboring 1 Laurel, 1055 San Anselmo Avenue, and 15 Laurel, causing shade and shadow and unreasonably impact the privacy of those properties. Therefore, this finding cannot be made.

4. *Will not be of a bulk, mass and design that complements the existing character of the surrounding neighborhood.*

Building heights generally vary from one to two stories in the neighborhood but this project is proposed on the east side of a block that has low single-story structures and no second stories and the full two-story design will be out of scale with, and will not complement, the existing character of the surrounding neighborhood. Therefore, this finding cannot be made.

5. *Will materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood.*

The proposed project will have significant impacts on access to light and air for neighbors to the south, west and east. Therefore, this finding cannot be made.

D. Required findings for Demolition Permit per San Anselmo Municipal Code section 10.3.2104:

1. *The demolition will not remove from the neighborhood or Town, nor adversely affect, a building of historical, architectural, cultural or aesthetic value.*

The project site is a portion of lots 5 and 6 of an unrecorded Yolanda Park Subdivision (“the subdivision”), subdivided prior to 1919. The first homes developed on the street were the bungalows at 15, 16 and 42 Laurel (and a residence in the area of 26 Laurel that was replaced). According to the County Assessor, the site and adjacent lot 5 Laurel Avenue were developed in 1939-1940. In 1934, the Town Council denied a request to

rezone 5 and 9 Laurel Avenue to allow construction of a gas station. The Town of San Anselmo does not have an official local register of historic properties or historic districts. The site was not listed in the 1987 historic resource survey. The bungalows at 15 and 16 Laurel Avenue were identified as potentially eligible for local listing in that survey. The site does not represent a particular architectural style and was not designed by a notable architect. The residence would not qualify for listing on a state or federal historic register.

2. *The project is consistent with the San Anselmo General Plan.*

The addition is not consistent with the following General Plan provisions: Land Use Goal 1 “The small-town character, scale, and pace of life in San Anselmo shall be preserved, as shall the Town's close connection with the natural beauty of its setting;” Land Use Goal 3 “New developments shall be integrated harmoniously into San Anselmo's existing neighborhoods and commercial areas;” and Land Use Policy 11.1 “New development, including rehabilitation and expansion projects, shall be of a scale, intensity, and design that integrates with the existing character of the surrounding neighborhood” as supported by the above Variance Finding 2 and Design Review Findings 1-5.

3. *The project will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood and will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.*

The proposed residence will meet Building Codes and will be up to current fire safety standards with sprinklers. The second story is not stepped back on all sides and not well-articulated and will be injurious to adjacent property.

4. *The granting or denying of a demolition permit for the demolition of structures may also be subject to the following findings based on substantial evidence as determined by the Planning Commission or Town Council:*

- a.) *Failure to approve a demolition permit will cause immediate and substantial hardship because of the conditions peculiar to a particular structure, and such hardship has not been created by an act of the owner in anticipation of action under this chapter. Examples of hardship include health and safety hazards that cause the building to be unsafe. Personal, family, financing difficulties, loss of prospective profits and neighboring violations are not justifiable hardships.*
- b.) *It is necessary to reveal previous architectural features covered up, such feature that would be functionally and aesthetically compatible with the existing improvements and the natural elements of the area.*

These findings are inapplicable to this project. Failure to approve the demolition permit would not cause immediate hardship and is not necessary to reveal previous architectural features.

Resolution passed this 14th day of June, 2022 at the regular meeting of the San Anselmo Town Council by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT: