

**MINUTES OF MEETING**  
**WEST COUNTY BOARD OF ZONING ADJUSTMENTS**  
**JANUARY 24, 2007**  
**(APPROVED FEBRUARY 7, 2007)**

The meeting was held at the hour of 1:30 in the Alameda County Building, 224 West Winton Avenue, Hayward, California.

**REGULAR MEETING: 1:30 p.m.**

**MEMBERS PRESENT:** Chair; Ron Palmeri; Vice Chair, Frank Peixoto; Members, Jewell Spalding Lester Friedman and Dawn Clark Montenegro.

**MEMBERS EXCUSED:** None.

**OTHERS PRESENT:** Phil Sawrey-Kubicek, Senior Planner; Yvonne Bea Grundy, Recording Secretary

There were approximately 10 people in the audience.

**CALL TO ORDER:**

The meeting was called to order by the Chair at 1:35 p.m.

**ANNOUNCEMENTS BY THE CHAIR:** The Chair made no announcements.

**OPEN FORUM:**

Open forum is provided for any members of the public wishing to speak on an item not listed on the agenda. Each speaker is limited to three (3) minutes.

No one requested to be heard under open forum.

**CONSENT CALENDAR:**

1. **JOHN SULLIVAN, CONDITIONAL USE PERMIT, C-8495** – Application to allow continued use of one site for: a) an outdoor storage yard; b) occupancy of a contractor's unit; and c) contractor's storage yard, in an M-2 (Heavy Industrial) District, located at 16520 Worthley Drive, southwest side, approximately 1,650 feet southeast of Grant Avenue, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 438-0010-004-14. (Continued from August 9, August 23, October 11 and December 13, 2006; to be continued to February 28, 2007).
  
2. **VINCENT ROOFING COMPANY, CONDITIONAL USE PERMIT, C-8545** – Application to allow the continued operation of a contractor's storage yard, in an M-1 (Light Industrial) District, located at 2181 Dunn Road, north side, approximately, 350 feet west of Clawiter Road, unincorporated Eden Area of Alameda County, designated Assessor's Parcel Number: 439-0016-016-02. (To be continued to February 7, 2007).

3. **HAYWARD AREA RECREATION & PARK DISTRICT, CONDITIONAL USE PERMIT, C-8552** – Application to allow the continued use of a caretakers dwelling, in an R-1 (Single Family Residence) District, located at 1970 Via Buena Vista, west side, terminating west of Via Buena Vista, unincorporated, San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 411-0078-001-00. (To be continued to February 7, 2007).
4. **TERESITA LAGUNA, CONDITIONAL USE PERMIT, C-8555** – Application to allow the continued operation of a 22 bed Residential Care Facility, in an R-1 (Single Family Residence) District, located at 268 Lewelling Boulevard, south side, approximately 100 feet east of Tracy Street, , unincorporated, San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 413-0093-002-00. (To be continued to February 7, 2007).
5. **MICHAEL GAHAGAN, VARIANCE, V-12037** – Application to allow a secondary unit of 720 square feet in area where 640 square feet is the maximum allowed in an, R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 4157 Krolop Road, south side, approximately, 450 feet west of Vineyard Avenue, unincorporated, Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084D-1140-017-12. (Continued from January 10, 2007; to be continued to February 28, 2007).
6. **ANTHONY FURLONG, VARIANCE, V-12045** – Application to allow a 16 foot, five inch rear yard where 20 feet is required with the construction of a new Single Family Dwelling, in an R-S-D-20 (Suburban Residence, 2,000 square foot, Minimum Building Site Area per Dwelling Unit Density) District, located at the south side terminus of Meadow Lark Drive, in the unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084C-0724-148-00. (Continued from January 10, 2007; to be continued to February 7, 2007).
7. **PHOI PHAN, VARIANCE, V-11951** – Application to allow construction of four dwelling units with: a) A five foot side yard; b) a two foot driveway set back, raised to four feet; c) 1,536 square feet of open space where 2,400 square feet of open space is required; d) no sidewalk; and e) A 13 foot wide driveway where 16 feet is required in an R-S-D-20 (Suburban Residence, 2,000 square feet Minimum Building Site Area per Dwelling Unit) District, located at 230 Laurel Avenue, north side, approximately 400 feet west of Princeton Street, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 429-0091-058-00. (Continued from April 26, June 28, July 26, September 13, October 11 and December 13, 2006; to be continued to February 28, 2007).

Staff announced that Variance Application, V-11951, Phoi Phan has been withdrawn.

Vice Chair Peixoto motioned to adopt the Consent Calendar as modified. Member Spalding seconded the motion. Motion carried 5/0.

#### REGULAR CALENDAR

1. **JOSE RAMIRO, CONDITIONAL USE PERMIT, C-8489** – Application to

allow the continued operation of a tavern “The Stadium Club” in an ACBD (Ashland Cherryland Business District Specific Plan) – Transit Corridor District, located at 15698 East 14<sup>th</sup> Street, east side, corner north of Plaza Drive, unincorporated Ashland area of Alameda County, designated Assessor’s Parcel Number: 080-0034-007-00. (Continued from October 11, November 15, December 6, 2006 and January 10, 2007).

Staff reminded the Board that the application had been continued several times to obtain comments from the Sheriff’s Department, and to obtain a translator. Initial Board questions were as follows:

- Is the applicant in compliance with all required conditions in the previous CUP
- Does the applicant have a service agreement with a security company
- What are the hours of operation for the Stadium Club
- Are the hours of operation posted on the premises
- Is the neon business sign considered “non-conforming”
- Is the property in a redevelopment zone
- If classified non-conforming, can the sign be upgraded or brought into compliance with the current zoning rules
- Is the business still considered a restaurant in addition to a bar and/or tavern

Staff was unable to confirm that the applicant was in compliance with all of the listed conditions of the prior permit. Staff did confirm that the primary condition related to landscaping had been completed. The applicant submitted an expired security service agreement with ET Incorporated. A copy of the agreement was shown to Board Members. As a result of the expired agreement there was no way to verify that security is actually being provided at the Stadium Club. Member Friedman asked for clarification regarding the hours of operation on Sundays as Noon to 9:00 p.m., Monday through Thursday open until 11:00 p.m. and Friday & Saturday till 1:00 a.m. Staff responded that although prior hours were listed in the staff report, no official documentation regarding the hours of operation existed in the prior CUP. Member Friedman responded that hours of operation must be conditioned as part of the use permit, as well as the requirement of posting of the hours of operation. The Chair asked if the existing non-conforming, mounted neon signage could be addressed through Conditions of Approval. The Chair believed the sign was legal as it was in place prior to Zoning. Counsel asked the Board to expand upon the options they were considering. The Chair responded that area is part of a redevelopment district. Although the bar has been there for many years the Board would like to bring the sign into compliance with current code. In response, Counsel told the Board that the applicant may have a vested right to retain the sign. It was however within the Boards purview to request reasonable restrictions as to size, and that the sign remain clean, neat in a non dilapidated state. Member Spalding pointed out that page #3 of the staff report states that the use of the bar/restaurant was changed to a use of to bar/tavern. The sign was installed during the time when the location was a bar/restaurant. The new application is for a bar/tavern, would it now be appropriate to ask for signage to comply with the current sign ordinance.

Staff confirmed that the sign ordinance was implemented prior to the removal of the restaurant use.

Therefore a change in use would be subject to the ordinance regulations. Public testimony was opened.

Staff person, Sonia Urzua assisted the applicant with their testimony by providing Spanish translation. The applicants Mr. & Mrs. Ramiro the owners of the Stadium Club were present. Board Members had the following questions of the applicants:

- Did the applicants understand the prior discussion regarding signage on the property
- What are the Stadium Club's current hours of operation
- Are the Hours of Operation posted on the exterior of the business
- What is being done to address the neighborhood parking issues discussed in the staff report
- Is there a process or policy in place that addresses and/or assists patrons that leave the establishment overly intoxicated
- Have the applicants had an opportunity to read the staff report
- Was the report translated into Spanish
- What is the level of security staffing on the night shift
- Does security limit their patrol to the immediate area, or does coverage go beyond the grounds to ensure that patrons do not engage in illegal or illicit activities

Mr. Ramiro told the Board through translator, Sonia Urzua that his wife read the staff report and translated the information for him and that she reads in English. Mrs. Ramiro is present today, and can answer any further Board questions. Mr. Ramiro continued testimony through the translator, Sonia Urzua. Due to the recent painting of the building the Hours of Operation Sign had been, temporarily removed. The sign will be re-posted. The hours of operation at the Stadium Club, Monday through Thursday are 5:00 p.m. until there are no longer any customers. They will not stay open until 2:00 a.m. if there is no business. Friday, Saturday & Sunday the hours are 4:00 p.m. to 2:00 a.m. The hours posted for Sunday are 4:00 p.m. to 2:00 a.m. but typically, they close at Midnight. Regarding changes in signage, Mr. Ramiro was open to future improvement, however due to financial constraints he would not be able to make immediate changes to signage. There are 4 spaces in the parking lot at the rear of the establishment. Typically, spaces are available on the street as well. Mr. Ramiro said he was also open to ideas regarding parking improvement for the area. When the establishment closes, Mr. Ramiro walks the property for approximately 20 minutes. He cleans the area and tells patrons they must move on, and not remain in the area. If a patron appears too intoxicated to drive a vehicle, a cab is called or Mr. Ramiro drives them to their destination. Since he has owned the tavern he has never called the Sheriff. Mr. Ramiro told the Board, it was his policy to try and take care of issues himself before they become problems. There is one security person on duty when the club is open. When business levels increase to support additional staffing, security will be increased. The security guard leaves the front door post every 45 minutes, and rotates to the back of the property, and up to each corner. If it is a busy night, security makes the rotation more often.

Although security does not patrol beyond the corners into the residential neighborhood, the immediate area is fairly well lit, and visible. Mrs. Ramiro said that the security company she retained was headquartered in Florida. ET Security Incorporated also has offices in Panorama City, and Los Angeles.

Member Spalding called Mrs. Ramiro to testify to her understanding of the proposed Conditions of Approval. Mrs. Ramiro told the Board through the interpreter Ms. Urzua that her daughter read the conditions to her, and assisted her with the interpretation of the staff report. Mrs. Ramiro said that she also spoke with Staff Planner, Richard Tarbell during the application process. Board Members requested to speak with the Ramiro's daughter. The Ramiro's daughter was not present at the hearing. Member Friedman stated that he was concerned. He wanted to ensure the applicant's limited ability to respond in English did not impede a true understanding of condition requirements. The Chair responded to Mrs. Ramiro that the Board's ultimate concern was that she and her husband understand the information. Mrs. Ramiro confirmed she understood the staff report and Conditions of Approval. The Chair said as long as Mrs. Ramiro represents that she does understand the information, the application process should move forward.

Joel Moncada a Prevention Specialist for COMMPRE submitted a letter to the Board. In addition to the issues outlined in the letter he raised several additional concerns. On peak nights bar patrons park their cars in front of neighboring homes. Patrons have also been seen urinating at the nearby car wash, and leaving bottles and scattered litter in the area. However Mr. Moncada did acknowledge that since the issue of littering was brought to the owner's attention there has been a marked improvement. The exterior is well maintained, and clean. Another problem is that the business is located in a traffic corridor. The entrance to the parking lot is confusing. Noise is also generated by patrons. A nearby homeowner has relocated his den to the rear of his home as a result of the heavy traffic, frequenting the business. Mr. Moncada listed the following recommendations:

- The entry into the parking area should be more clearly marked
- Lighting should be improved to clearly indicate where patrons enter and exit the establishment
- Signage should be posted in a prominent location stating "no one under the age of 21 will be served alcohol"
- Security patrols should be increased. Especially to the rear of the building to prevent urinating etc.
- All employees, managers, security and promoters should be trained on rules applicable to the business, and notified of the ramifications for not adhering to the rules
- Although the permit for the other tavern owned by Mr. Ramiro is not within the jurisdiction of this Board, COMMPRE would like to request the same rules apply to the applicant's staff at 3237 Foothill Boulevard in Oakland

Member Spalding commented that she agreed with Mr. Moncada that the applicant had done a good job of cleaning up the exterior of the business. The community really appreciates the effort. Public testimony was closed.

Member Spalding commented that her inclination was to continue the application. At present the applicant has only read the staff report via her daughter. The Ramiro's daughter is not present at the hearing to confirm that all aspects of the staff report were clearly understood. As the staff report was prepared in English, not Spanish, Member Spalding wanted to ensure the applicant clearly understood all

of the issues. The applicant should also work with staff to determine if Redevelopment funds are available for signage improvement or replacement. The security agreement submitted by the applicant has not been thoroughly reviewed and/or approved by staff. A lighting plan should also be considered.

Member Friedman pointed out that the Environmental Health Permit had expired in October, 2006. The Business License also appeared to be expired. Staff should verify all permits before the item is heard again. Member Spalding asked staff to research the dance permit for the application as well. This is critical as most of the issues that arise occur on dance nights.

Member Clark said she lives in the area, and drives by the location frequently. She has witnessed patrons urinating at the car wash. She has also experienced intoxicated patrons jumping into the street in front of her car. The applicant should implement an aggressive security plan to mitigate these impacts.

The Vice Chair commented that the Sheriff's report was diametrically opposed to testimony given. Member Spalding responded that, the fact that Mr. Ramiro prefers to handle issues has a direct impact on the lack of incidents reported to the Sheriff.

The Chair additionally indicated, that the matter should be continued to make certain that the applicant understood what was in the staff report, and the discussion that had taken place with the Board. He was not satisfied that the interpreter was able to convey all of the information to the applicant; as he was convinced at the end of testimony that the applicants did not fully understand all of the information contained in the staff report.

Member Spalding motioned to continue the application to April 25, 2007. Member Friedman seconded the motion. Staff should ensure that all licenses are current including the permit to operate, before returning the application for the next hearing. The applicant should also set and communicate the days, and times dancing begins, and ends on the premises. The maximum occupancy for dance nights should also be determined. A valid security contract must be submitted. Signage listing hours of operation and alcohol will only be served to persons 21 years of age or more must be posted. Determination and/or the establishment of available funds for facade improvement shall be determined. Motion carried 5/0.

2. **DAVIS HUNG PHAN, CONDITIONAL USE PERMIT, C-8510** – Application to allow a massage therapy business, in an ACBD - FA (Ashland Cherryland Business District Specific Plan) Freeway Access District, located at 11, Lewelling Boulevard, north side, approximately, 300 feet east of Via Granada, unincorporated San Lorenzo area, of Alameda County, designated Assessor's Parcel Number: 413-0015-038-00. (Continued from December 13, 2006).

Staff requested a continuance to February 28, 2007. Through further processing of the application staff discovered that "massage use" is not allowed in the Specific Plan. The planner has talked with the applicant's lawyer, who in turn will explain this to Mr. Phan. If there are no possible options, the applicant will be given a refund.

Ms. Katherine Moretti, representing the Ashland Homeowners Association testified that the Association was not in favor of a "massage use" in the area. The proposed use would be too close to a local Catholic school. The Redevelopment Advisory Committee of which she is an active member is also opposed the application. Public testimony was closed.

Member Spalding motioned to continue the application to February 28, 2007. Member Clark seconded the motion. Motion carried 5/0.

3. **JEFF RYAN / WOMEN OF THE WAY RECOVERY CENTER, CONDITIONAL USE PERMIT, C-8541** - Application to allow the continued operation of a Residential Care Facility for alcohol and drug rehabilitation for up to ten women in an R-1-SU (Single Family Residence, Secondary Unit) District, located at 20424 Haviland Avenue, east side, approximately, 150 feet north of Cherry Way, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 429-0019-023-00. (Continued from January 10, 2007).

Staff reminded the Board that the application had come before them on January 10, 2007. The application was continued to allow staff to obtain a definition of "furlough facility", and to clarify the legality of State Facility Licensing that might extend beyond the effective date of a CUP. County Counsel explained that under Penal Code 1210, voters enacted the Substance Abuse and Crime Prevention Act of 2000. Persons convicted of non violent drug offenses may be eligible for release to certified drug treatment programs. Women of the Way, has requested the language "furlough facility" to be included in their CUP. The language is designated as part of SACPA and its inclusion is required for State licensed facilities. These facilities must adhere to standards of treatment and facility maintenance etc. Licensed residential care facilities within Alameda County must also be in compliance with Standards for Development of Hospitals, Medical or Residential Care Facilities, adopted by the Planning Commission in 1969. Persons released to a furlough facility have been referred by an officer of the court with defense input. A judge makes the final eligibility determination. Counsel reiterated that only non violent offenders are eligible for consideration. This overall process adds a secondary screening feature. Member Friedman pointed out that the definition "furlough facility" was not contained in (SACPA). Counsel clarified that the California Code of Regulations (CCR) contains the requirements and guidelines for drug treatment, and furlough facilities. Member Spalding commented that the operative words incorporated within the CCR language are "drug treatment, furlough facility". Member Friedman recommended that a Condition of Approval be added which states: The facility shall be considered a drug furlough facility/program in accordance with the rules and regulations contained in the California Code of Regulations. The Drug Treatment Furlough Program Standards, Exhibit "E" shall also be incorporated into the Conditions of Approval. All Board Members were in agreement. Public testimony was opened.

Barbara Quintero thanked the Board for considering the application. Ms. Quintero said she is proof that the program works. She was one of the first graduates. Ms. Quintero said since graduation she has achieved many milestones. She owns a home, has obtained her college degree, and is married with college aged children. Even though her schedule is busy she still volunteers at the facility 20 hours per week. Ms. Quintero said she is not alone as many graduates return to the facility as volunteers. They want to help bring other women out of drug addiction and reunite them with their children. It is important for new residents to see that they can set, and achieve goals. Seven of the 10 beds are occupied by local Hayward residents, including women from the Cherryland area. Currently one bed is held by an Oakland resident and one by a Pleasanton resident. Board Members had the following questions:

- Are staff and volunteers aware of issues that have arisen as a result of prostitution in the area
- Has Women of the Way obtained permits for the garage that has been converted into a classroom

Ms. Quintero acknowledged there are prostitutes in the area. She is embarrassed now to admit that she was involved in the lifestyle herself, before she became clean and sober. She does not condone the behavior, but many women fall into prostitution as a result of drug use. Although the women prostituting in the neighborhood are not from the facility she does go out to speak with them. With the help of other

volunteers she has been successful getting some of the prostitutes off of the street. The Sheriff's Department has also brought women they believe can be turned around to the facility. She herself is proof that people can come out of drug abuse. The classroom space had been improved with Community Improvements Funds from the City of Hayward. She was not aware that additional permits were required. The garage door has not been altered. Prior to the improvements the garage was used a classroom for at least 5 years. Ms. Quintero said initially the classroom had standard tables and a few computers. State inspectors toured the facility and notified the agency that classroom upgrades were necessary to comply with State standards. Mr. Bullok said he obtained a permit for the gas line and heating upgrade for the classroom, and that he always gets permits for work he has completed. He assured the Board that he will follow up with the Building and Planning Departments to insure that all work is in compliance. Public testimony was closed.

Member Spalding commented that the language after the semicolon within Condition #14 was inconsistent with Condition #7, #10, #12 and #13. She recommended that the balance of the language in Condition #14 after the sentence, "This Conditional Use Permit is non transferable", be deleted. The Vice Chair asked staff if the question regarding the expiration of state permit prior to a CUP had been resolved. Staff clarified that Condition #15 addressed that issue.

Member Spalding motioned to uphold the staff recommendation of approval with the modification to Condition #14. All language after the semicolon shall be deleted. The semicolon shall become a period. Condition #11 shall be modified to include that: The facility shall be considered a drug furlough treatment facility/program in accordance with the rules and regulations contained in the California Code of Regulations. The facility must adhere to all rules and regulations contained in The Drug Treatment Furlough Program Standards, Exhibit "E" which shall be incorporated, herein. Member Friedman seconded the motion. Motion carried 5/0.

4. **FRANK & MARIA MITCHELL, CONDITIONAL USE PERMIT, C-8556 and VARIANCE, V-12047** - Application to allow the construction of a new Single Family Dwelling with a 10 foot driveway setback where 20 feet is required, and a 12 foot rear yard setback where 20 feet is required, in an M-U (Mixed Use Residential, Commercial) District, located at 750 Bockman Road, south side, approximately, 400 feet west of Via Arriba, unincorporated, San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 412-0085-063-00. (Continued from January 10, 2007).

Staff recommended approval of the conditional use permit, and the variance application. Public testimony was opened.

The applicants, Mr. & Mrs. Mitchell were present. They were in agreement with staff recommendations and findings. Board questions were as follows:

- Is there more than one access driveway
- Is there an alternate location for garbage receptacles currently placed on the narrow driveway
- Have the neighbors been contacted in an attempt to obtain an easement on the eastern side of the property
- Are there plans to bring the "potentially historical home" on the property up to current building, and code standards

The applicants confirmed there was only one access driveway on the property. Staff clarified that the driveway did have access to a large open area behind the commercial building, and in front of the historic house. This area can be used for one parking space. Another, larger open area is located further back on the parcel between the existing home and garage. This area can accommodate three parking spaces. Mr. Mitchell has talked with the adjoining neighbor about a permanent easement, and re-paving the driveway area. The neighbor is not enamored with the proposal, as it could limit further improvement of their property. Mr. Mitchell did not believe the existing driveway width would be a serious problem as the driveway has been used for 30 years with no issues. None the less he will continue discussion of a possible easement with the neighbor, as he would like a wider driveway as well. Mr. Mitchell told the Board he would also try to find another location for the garbage receptacles. Mrs. Mitchell assured the Board they planned to improve the existing home. Improvement plans will not move forward until Community Development determines if the house is "historic". A historic classification could greatly impact and/or limit the scope of work. The family plans to retire on the property, and does not intend to leave the circa 1880's home in a dilapidated state. Public testimony was closed.

Member Spalding asked staff if Land Development could be deleted from the Conditions of Approval. Staff confirmed Land Development had no comments regarding the application, and could be omitted.

Vice Chair Peixoto motioned to approve the application with a modification to Condition #4. Land Development shall be removed from Condition 4 (IV). Member Friedman seconded the motion. Motion carried 5/0.

5. **LUIS BARBOSA, VARIANCE, V-12041** – Application to allow construction of a new single family dwelling 27 feet, five inches in height where 25 feet is the maximum, in a P-D (ZU-1451- Planned Development, 1451<sup>st</sup>, Zoning Unit) District, located at 2867 Eugene Terrace, south side, approximately, 270 feet west of Dominic Court, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084B-0405-036-00. (Continued from December 13, 2006).

The Chair recused himself and passed the gavel to the Vice Chair. Staff recommended approval of the application with one modification in the original submitted design. The project is in compliance with Condition #2. The height of the two story structure will not exceed a height of one foot above the base of the east facing deck at, 2859 Eugene Terrace Court. The modified plan has been submitted as Exhibit #C. The CVMAC and the Chabot Estates Architectural Review Committee are in agreement with the modified design. Public testimony was opened.

The project designer Mr. Barbosa and the property owner Mr. Godinez were present to answer questions. Member Spalding commented that the project designer Mr. Barbosa was very thorough in meeting all of the design requirements and conditions. Public testimony was closed.

Member Friedman motioned to accept the staff recommendation of approval with the stated modification, submission of "Exhibit #C. Member Clark seconded the motion. Member Spalding asked for a modification to the motion. This is a variance for building height. As a result the Public Works Agency should be eliminated from the Conditions. Member Friedman accepted the modification. The Chair recused himself, and did not participate in the hearing of the matter or the vote. Motion carried 4-0-1.

6. **EDWARD TANAKA, VARIANCE, V-12042** – Application to allow a dwelling

30 feet in height where 25 feet is the maximum allowed, in an R-1-RV (Single Family Residence, Recreational Vehicle) District, located at 16896 Robey Drive, northeast side, approximately, 630 feet south of 167<sup>th</sup> Avenue, unincorporated El Portal Ridge area of Alameda County, designated Assessor's Parcel Number: 080A-0221-016-00.

Staff recommended approval of the application. The CVMAC recommended approval as well. Initial Board questions were as follows:

- Is it standard practice for CVMAC to review applications in the El Portal Ridge Area
- How many height variances for over 30 feet have been approved on Robey Drive

Staff did not have the exact number of variances granted. However they estimated there were a large number, due to the steep terrain. Castro Valley Municipal Advisory Committee may review applications that are within their sphere of influence, east of the 580 Freeway. Public testimony was opened.

The project architect, Mr. Tanaka represented the property owner Theresa Leung. Mr. Tanaka agreed with staff and acknowledged that Robey Drive is very steep. Ms. Leung would like to go from the garage to the interior of the house. The addition would add 455 square feet and an interior stairway providing protection from the rain etc. Member Friedman asked Mr. Tanaka if he was aware of a letter submitted by a neighbor on President Drive that opposes the application, if it will exceed the height of adjacent buildings. Mr. Tanaka said he believes there is a misunderstanding. As he understands the Zoning Ordinance, when the existing home (enclosed space) is connected to the garage. A 25 foot, maximum height limitation comes into play. The addition will not exceed the height of the existing home. In actuality the proposed height is slightly lower. Vice Chair Peixoto confirmed that the project would not be higher than neighboring homes, during a site visit to the property. Public testimony was closed.

Member Friedman motioned to uphold the staff recommendation of approval. Member Spalding seconded the motion. Motion carried 5/0.

7. **RONALD & ANITA ATTENBERY, VARIANCE, V-12050** – Application to allow a 15 foot, front setback where 20 feet is required in an R-1 (Single Family Residence) District, located at 15968 Mills Avenue, east side, approximately, 200 feet north of Tulsa Street, unincorporated, San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 080D-0579-012-00.

Staff recommended approval of the application. Public testimony was opened.

The applicant, Mr. Attenbery told the Board that the home was built in 1951. The standard setback at the time was 15 feet. There are two homes in the neighborhood that have added onto the garage in the front of the property. One in 1960 before a variance was required. A variance was also granted for a similar project in 1984. The proposed front room and additional garage space will aligned the existing garage, and not exceed the current building depth. Public testimony was closed.

Member Spalding asked staff why the permit was referred to Clean Water. Staff responded that the proposed addition would exceed the current impervious surface ratio calculations. Clean Water reviews and approves mitigation measures during the building permit process. The Chair asked if San Lorenzo Village Homeowners Association had responded with comments. Staff confirmed that the HOA had no comments.

Vice Chair Peixoto motioned to accept the staff recommendation of approval. Member Spalding seconded the motion. Motion carried 5/0.

**APPROVAL OF MINUTES:** Member Clark motioned to accept the Minutes of December 13, 2006 as submitted. Member Friedman seconded the motion. Motion carried 5/0.

Vice Chair Peixoto motioned to approve the Minutes of January 10, 2007 as modified. Member Friedman seconded the motion. Motion carried 5/0.

**STAFF COMMENTS & CORRESPONDENCE:** Staff told the Board that the Appeal Letter for Variance, V-11987 had been re-written in response to Board Members concerns stated at the January 10, 2007 Meeting. The draft will be submitted to Vice Chair, Frank Peixoto for review and approval. The letter will also be submitted to Board Members. Assistant Planning Director, Steve Buckley will respond to Member Spalding directly regarding her concerns about the prior letter not accurately reflecting the BZA's determination of denial.

**CHAIR'S REPORT:** No Chair's Report was submitted.

**BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:**

The Chair told Board Members that he sent an e-mail to the Planning Director to clarify, and reiterate the concerns expressed at the prior meeting regarding Appeal Letters. Process improvements will be made as a result. Staff will get BOS Appeal Letters to the Chair for review, 24 hours prior to submittal. This will allow BZA Members to review context, and allow time for any necessary changes. Letters will be reviewed by the Vice Chair if the Chair was not present at the corresponding meeting.

**ADJOURNMENT:**

There being no further business, the hearing adjourned at 3:30.

---

**CHRIS BAZAR - SECRETARY**  
**WEST COUNTY BOARD OF ZONING ADJUSTMENTS**