

**MINUTES OF MEETING**  
**WEST COUNTY BOARD OF ZONING ADJUSTMENTS**  
**MAY 11, 2005**  
**(APPROVED MAY 25, 2005)**

The meeting was held at the hour of 1:00 p.m. in the Alameda County Building, 224 West Winton Avenue, Hayward, California.

**FIELD TRIP: 1:00 p.m.**

**MEMBERS PRESENT:** Members Frank Peixoto, Chair; and Judy Roos.

Members Excused: Lester Friedman, Ron Palmeri and Jewell Spalding

**OTHERS PRESENT:** Phil Sawrey-Kubicek, Senior Planner

**FIELD TRIP:** The meeting adjourned to the field and the following property was visited:

1. **GREG BROTHERS / MANILA CHURCH, CONDITIONAL USE PERMT, C-8145**  
– Application to build a new assembly hall, and to temporarily place a portable building on the site to hold meetings while the new meeting hall is beings constructed, in a R-1-SU-RV (Single Family Residence, Secondary Unit and Recreational Vehicle) District, located at 4035 Seven Hills Road, south side, approximately 180 feet east of Parsons Avenue, unincorporated Castro Valley area of Alameda County, designated County Assessor’s Parcel Numbers: 084-1342-038-00; 084D-1342-004-00 and 084D-1342-005-00.
2. **KENNETH & JOAN Mc RAE, CONDITIONAL USE PERMIT, C-8400** – Application to continue operation of an outdoor storage yard for construction materials in an M-1 (Light Industrial) District, located at 2460 Dunn Road, south side, approximately 266 feet east of the Southern Pacific Railroad, unincorporated Mount Eden area of Alameda County, designated Assessor’s Parcel Number: 0439-0013-020-02.
3. **CARLOS RUANO, CONDITIONAL USE PERMIT, C-8401** – Application to remodel an existing dwelling by construction of an attached addition in a C-1 (Retail Business) District, located at 16990 Westerman Court, southwest side, approximately 75 feet northwest of East Lewelling Boulevard, unincorporated Cherryland area of Alameda County, designated Assessor’s Parcel Number: 0414-0001-002-02.
4. **KEVIN WONG, CONDITIONAL USE PERMIT, C-8402** – Application to operate an auto supply service facility (smog check/test only) in a C-2 (General Commercial) District, located at 988 Rufus Court, approximately 150 feet southeast of Mission Boulevard, unincorporated Cherryland area of Alameda County, designated Assessor’s Parcel Number: 0428-0011-020-00.
5. **NICOLE MC GANN, CONDITIONAL USE PERMIT, C-8403** – Application to continue operation of an indoor recreation facility (dance studio) in a PD (Planned Development) District, located at 1432 Via Lacqua, southeast side corner, southeast of Channel Street, unincorporated San Lorenzo area of Alameda County, designated

Assessor's Parcel Number: 0411-0039-009-00.

6. **ANTHONY GALLARDO, VARIANCE, V-11916** – Application to construct a detached addition located four feet from the main building where six feet is required in a PD (Planned Development) District, located at 17000 Columbia Drive, northeast side, approximately 56 feet northeast of Castlebrook Drive, unincorporated, Castro Valley area of Alameda County, designated Assessor's Parcel Number: 0085-6313-068-00.
7. **ADELA & PABLO VALLADARES, VARIANCE, V-11920** – Application to: 1) construct a new single family dwelling and maintain an existing 10 foot wide driveway where 12 feet is required; and 2) a zero foot setback from the driveway to dwelling wall where 10 feet is required in a R-S-SU (Suburban Residence with a Secondary Unit) District, located at 20556 Cambridge Avenue, east side, approximately 174 feet south of Hampton Road, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0414-0041-051-00.
8. **CLAUDIO REZENDE, VARIANCE, V-11923** - Application to construct an attached addition so as to provide a 10 foot front yard where 20 feet is the minimum required in an R-1 (Single Family Residence) District, located at 1030 Via Palma, west side, approximately 159 feet north of Via Coralla, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 0412-0077-087-00.
9. **DEBRA L. MUELLER, VARIANCE, V-11926** – Application to construct an attached addition providing a 10 foot rear yard where 20 feet is the minimum required in a R-1-CSU-RV (Single Family Residence with Conditional Secondary Unit and Recreational Vehicle) District, located at 2537 Nordell Avenue, south side, approximately 253 feet east of Zeno Street, unincorporated Castro Valley area, designated Assessor's Parcel Number: 084A-0205-023-00.
10. **MARTIAN BOT, VARIANCE, V-11927 and SITE DEVELOPMENT REVIEW, S-1984** - To allow construction of a new dwelling so as to provide an eight foot setback between access driveway and building wall and to maintain a four foot six-inch side yard setback where 10 feet is the minimum required in a R-S-SU (Suburban Residence, Secondary Unit) District located at 147 Medford Avenue, south side, approximately 337 feet east of the intersection with Meekland Avenue, in the unincorporated Cherryland area of Alameda County, bearing Assessor's Parcel Number: 429-0010-014-02.
11. **GREG VAN MECHELEN, VARIANCE, V-11928** – Application to renovate an existing dwelling to provide new, two story construction with a twelve foot – six inch front yard where twenty five feet – zero inches are required (as measured from a Future Width Line) and an average building height of twenty seven feet where 25 feet is the maximum allowed in an R-1-CSU-RV (Single Family Residence with Conditional Secondary Unit and Recreational Vehicle) District, located at 19942 Center Street, east side, approximately 51 feet north of Gem Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084C-1063-006-00.
12. **OLGA KOVAL, VARIANCE, V-11929** – Application to construct a new single family dwelling 27 feet in height where 25 feet is the maximum allowed in an R-1-CSU-RV

(Single Family Residence with Conditional Secondary Unit and Recreational Vehicle) District, located at 3775 Seven Hills Road, south side, approximately 200 feet east of the end of Lamson Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084D-1320-001-02.

13. **RICHARD BRENKWITZ, VARIANCE, V-11935** – Application to allow reconstruction of an attached accessory structure (carport/garage/storage area) in the front half of the lot where not otherwise permitted, in a PD [Planned Development, 1660<sup>th</sup> Zoning Unit, allowing R-1-L-B-E and R-1-L-B-E-SU (Single Family Residence, Limited Agricultural, 20,000 square feet Minimum Building Site Area, Secondary Unit) uses when municipal water and sewer service is available] District, at 24013 Eden Avenue, west side, approximately 100 feet south of Middle Lane, unincorporated Mount Eden area of Alameda County, designated Assessor's Parcel Number: 0441-0087-002-00.

**REGULAR MEETING: 6:00 p.m.**

**MEMBERS PRESENT:** Members Frank Peixoto, Chair; Ron Palmeri; Jewell Spalding; Lester Friedman and Judy Roos.

Members Excused: None.

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

There were approximately 21 people in the audience.

**CALL TO ORDER:**

The meeting was called to order by the Chair at 6:00 p.m.

**ANNOUNCEMENTS BY THE CHAIR:**

**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. **CENTRAL CHINESE CHRISTIAN CHURCH, CONDITIONAL USE PERMIT, C-8378** – Application to expand an existing church facility by the addition of two portable classrooms in an R-1-CSU-RV (Single Family Residence with Secondary Unit and Recreational Vehicle) District, located at 18381 Lake Chabot Road, south side, approximately 65 feet northwest of Dominic Drive, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084B-0472-011-03. (Continued from April 13, 2005; to be continued without discussion to June 8, 2005).
2. **NEXTEL, CONDITIONAL USE PERMIT, C-8399** – Application to continue

operation of an existing wireless communication facility (cellular site) in an R-1-CSU-RV (Single Family Residence with Conditional Secondary Unit and Recreational Unit) District, located at 20600 John Drive, east side, approximately 480 feet northeast of the end of Regent Way, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Numbers: 084A-0235-001-03 and 084A-0240-001-02. (To be continued without discussion to July 27, 2005).

3. **CARLOS RUANO, CONDITIONAL USE PERMIT, C-8401** – Application to remodel an existing dwelling by construction of an attached addition in a C-1 (Retail Business) District, located at 16990 Westerman Court, southwest side, approximately 75 feet northwest of East Lewelling Boulevard, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0414-0001-002-02. (To be continued without discussion to May 25, 2005).
4. **JOSE J. RAMON, VARIANCE, V-11902 and SITE DEVELOPMENT REVIEW, S-1965** – Application to retain two existing dwellings and to construct a new triplex so as to provide: 1) one foot and five feet between a driveway and dwelling wall where 10 feet is required; 2) a 14 feet – 10 inch rear yard where 20 feet is required; and 3) to maintain an existing five foot side yard where 10 feet is required, in a R-S-D-20 (Suburban Residence with 2,000 square feet Minimum Building Site Area per Dwelling Unit), located at 299 Sunset Boulevard, southwest side, approximately 325 feet southwest of Princeton Street, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0429-0091-009-00. (Continued from February 9, March 9 and April 13, 2005; to be continued without discussion to June 8, 2005).
5. **MYRNA HOAG, VARIANCE, V-11908** - Application to recognize previous expansion of a non-conforming use (tow yard in a residential area) and retention of an eight foot high fence where six feet is the maximum allowed in a R-S-D-15 (Suburban Residence with 1,500 square feet Minimum Building Site Area per Dwelling Unit) District, located at 16037 to 16097 Mateo Street, southwest side, approximately 311 feet northwest of 162<sup>nd</sup> Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Numbers: 0080-0057-030-00, 0080-0057-036-00 and 0080-0057-037-02. (Continued from April 13, 2005; to be continued without discussion to June 22, 2005).

Member Palmeri asked staff why the item was delayed. Staff responded that County Counsel needed more time to obtain additional information regarding the application.

6. **DEBRA L. MUELLER, VARIANCE, V-11926** – Application to construct an attached addition providing a 10 foot rear yard where 20 feet is the minimum required in a R-1-CSU-RV (Single Family Residence with Conditional Secondary Unit and Recreational Vehicle) District, located at 2537 Nordell Avenue, south side, approximately 253 feet east of Zeno Street, unincorporated Castro Valley area, designated Assessor's Parcel Number: 084A-0205-023-00. (To be continued without discussion to May 25, 2005).

Conditional Use Permit, C-8378 was taken off of the Consent Calendar and placed on the Regular Calendar for discussion at the request of Members of the Public. The Chair clarified that the item would be heard at the end of the Regular Calendar however the Board would not make a decision.

Member Palmer motioned to accept the Consent Calendar, items 2 through 6 as submitted. Member Spalding seconded the motion. Motion carried 5/0

#### REGULAR CALENDAR

1. **VILLAGE BAPTIST CHURCH / AT&T WIRELESS, CONDITIONAL USE PERMIT, C-8331** - Application to allow a new wireless telecommunications facility steeple on an existing church building with ground level equipment in a R-1 (Single Family Residence) District, located at 1535 Bockman Road, north side, at the intersection with Bandoni Avenue, unincorporated San Lorenzo area of Alameda County, bearing Assessor's Parcel Number: 411-0057-183-00. (Continued from March 9 and April 13, 2005).

Staff gave the Board an overview of the project and a correction regarding the size of the proposed equipment cabinets. The dimensions of the cabinets will be 5 foot – 3 inches in height and 4 foot – 3 inches in length. The 47 foot steeple will be mounted on the front of a two story structure. The applicant originally wanted a flag pole design however the size and design was not sufficient for AT&T's requirements. The Board had the following questions:

- Where are the cabinets located on the parcel
- Is the equipment placement subject to the 300 foot minimum distance from residential homes
- Will co-location be considered for the new steeple installation
- Can the equipment and steeple be placed on the rear of the building as opposed to the front
- Will existing telecommunications equipment on the property be removed
- Will the frequency of the installation interfere with Public Safety Communications and if so what are the methods and time frame of correction
- Is the application located within the Redevelopment Area

Staff responded that co-location has been discussed. A condition can be added that requires co-location consideration. The Alameda County Sheriff's Department did not object to the installation however "Cingular, must agree to immediately correct any situation involving interference with public communications". The San Lorenzo Homes Association did not have an objection to the design but did object to the installation location. The 300 foot distance requirement from residences is a requirement for non-free standing equipment. Public testimony was opened. The Pastor of the church explained that traditionally a steeple is mounted on the front of a structure. He reviewed photographs with the Board and explained the design. If a structure has a pointed roof the steeple is placed on top. The roof of the educational building is flat, indicating the steeple be mounted to the front of the building. The existing telecommunications equipment is mounted at the rear of the building.

Public testimony was closed. Members Spalding, Palmeri and Roos thought it was appropriate to postpone a decision until the Board could determine:

- What is the Redevelopment Agency's future vision for the area
- What is the possible impact of utility under-grounding

- Would the applicant be specifically required to co-locate
- How many other telecommunication facilities are located in the area

Member Spalding motioned to continue the application for 30 days to the June 8, 2005 Hearing. Member Palmeri seconded the motion. Motion carried 5/0.

2. **KENNETH & JOAN Mc RAE, CONDITIONAL USE PERMIT, C-8400** – Application to continue operation of an outdoor storage yard for construction materials in an M-1 (Light Industrial) District, located at 2460 Dunn Road, south side, approximately 266 feet east of the Southern Pacific Railroad, unincorporated Mount Eden area of Alameda County, designated Assessor's Parcel Number: 0439-0013-020-02.

A correction to the staff report was stated for the Board. One additional CUP had been issued for the property. Conditional Use Permit, C-7840 which expired in 2004 was inadvertently omitted. The recommendation was approval. Member Palmeri asked if it was a staff policy to referral all applications to Clean Water. Staff told the Board a referral was sent however no response was received.

Public testimony was opened. Member Spalding asked the applicant, Mr. Mc Rae if had reviewed the Planning Considerations regarding the request for dedication of a 5 foot permanent right-of-way. He confirmed that the frontage had already been dedicated and recorded. Member Palmeri said he was concerned that no response had been received from Clean Water and requested a continuance of the matter. Mr. Sawrey-Kubicek interjected that in his experience, Clean Water staff will contact only if they believe there is an issue.

Member Palmeri motioned to approve the application and accept the staff Tentative Findings and Pre Hearing Recommendations. Member Friedman seconded the motion. Motion carried 5/0.

3. **KEVIN WONG, CONDITIONAL USE PERMIT, C-8402** – Application to operate an auto supply service facility (smog check/test only) in a C-2 (General Commercial) District, located at 988 Rufus Court, approximately 150 feet southeast of Mission Boulevard, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0428-0011-020-00.

Staff recommended approval of the application. The Board had the following questions for staff:

- Has the applicant received Fire Department clearance
- What type of business formerly occupied the space
- Did the City of Hayward have any comments regarding the application
- Was the application referred to Redevelopment

Staff explained that fire clearance was usually obtained after the application was approved. The Building Permit process is the mechanism that verifies the applicant is in compliance. If the applicant does not comply, issues are handled by Code Enforcement. The City of Hayward had no comments. The application was referred to Redevelopment but there were no comments received.

Public testimony was opened. Member Roos asked the applicant, Mr. Wong, if he had obtained a

business license. He confirmed that he had. Member Spalding asked what the future plans were for the building and if they would be in line with redevelopment plans for the area. The space was formerly a motorcycle paint shop and conversion to a smog test shop is possible. She asked for clarification. Is Mr. Wong was the owner of the building or the owner of the business. Staff confirmed Mr. Wong was the owner of the business. Public testimony was closed.

Member Palmeri asked staff if there was a way to generate a response from Redevelopment. He would like to see a representative from Redevelopment present at the next meeting. The Chair commented that other auto service businesses were located in the same zone. Member Spalding was concerned that the applicant did not have control of the condition of the building. Member Roos asked if it would be appropriate to continue the matter until more information from Redevelopment could be obtained.

Member Friedman motioned to approve the application. Member Palmeri seconded the motion. Spalding and Roos were not in favor of approval. Motion carried 3/2.

4. **RIDDLE / RST & ASSOCIATES, VARIANCE, V-11897 – and SITE DEVELOPMENT REVIEW, S-1960** - Application to construct 11 condominium units, three stories in height and 33 feet, where two stories and 25 feet are the maximum, on a 0.50 acre site in a R-S-D-20 (Suburban Residence with 2,000 square feet Minimum Building Area per Dwelling Unit) located at 156 and 164 Laurel Avenue, north side, approximately 720 feet south west of Princeton Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0429-0091-065-00. (Continued from March 23 and April 13, 2005).

Staff reminded the staff the item had been before them on March 23<sup>rd</sup> and April 13<sup>th</sup>, 2005. The recommendation was denial of the application. Public testimony was opened. The applicant, Mr. Riddle and his architect, Mr. Theile were present. Mr. Theile said his client's goal was to put 11 units on the parcel to provide livable, entry level housing units and parking. Entry level housing is difficult to find in the Bay Area. Member Roos asked if reducing the number of units would resolve height issues. He confirmed that was possible however it would increase the cost per unit. She asked what the cost would be and Mr. Theile gave a ball park figure in the 200,000.00, two hundred thousand dollar range. Member Spalding commented that the project lacked a playground and sufficient landscaping. Mr. Theile told the Board that each unit had a backyard approximately 10x28 feet. A play area is located between the four unit building and the two unit building. There is also quite a bit of landscaping in the rear and front areas, especially in comparison to similar projects. Staff brought the landscaping plan to the attention of the Board. Public testimony was closed.

Member Palmeri motioned to deny the application on the basis the applicant could not meet the Tentative Findings in the affirmative. Member Friedman seconded the motion. Motion carried 5/0.

5. **CLAUDIO REZENDE, VARIANCE, V-11923-** Application to construct an attached addition so as to provide a 10 foot front yard where 20 feet is the minimum required in an R-1 (Single Family Residence) District, located at 1030 Via Palma, west side, approximately 159 feet north of Via Coralla, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 0412-0077-087-00.

The recommendation was approval. Public testimony was opened. The applicant, Claudio Rezende introduced himself to the Board. Member Spalding asked if he had reviewed the staff report. He confirmed that he had.

Board questions were the following:

- Was the conversion of the garage to habitable space done with the benefit of permit
- Where is off street parking located on the parcel
- What were the recommendations of the San Lorenzo Homes Village Association

Mr. Rezende said the work was completed by the former owner. Staff added that the work done in December 1994 was completed with benefit of permits. The parking is located on the south portion of the lot. Zoning Ordinance defines the narrowest side of the lot as the front. The lot is on a corner. Public testimony was closed.

Member Spalding motioned to adopt staff finding that there are special circumstances and granting the application would not constitute special privilege. Pre-Hearing Recommendation 2c, Land Development shall be omitted. Member Palmeri commented that he did not share Member Spalding's view that special circumstances were present. Many properties in San Lorenzo have the same configuration. The Home Owners Association may be willing to bend a little however he did not believe the variance was a minor relaxation. Member Roos agreed and said if 23 lots with the same design existed in San Lorenzo, this was not a special circumstance. Staff pointed out that the Homes Association requires no less than a 15 foot setback from center street line to the front of the house. The house is 16 feet, close to the standard. The Chair asked for verification of the definition, front of the property. Would front be defined by location of a street side mail box and front door location. Staff clarified that by Zoning definition the "front" on this property is the narrower of the frontages.

Member Spalding closed by saying that other variances had been granted in the area. The staff findings were consistent with the San Lorenzo Village Homes Association's comments. Staff concurred. Member Friedman seconded the motion. Members Roos and Palmeri were not in favor of granting approval of the application. Motion carried 3/2

6. **GREG VAN MECHELEN, VARIANCE, V-11928** – Application to renovate an existing dwelling to provide new, two story construction with a twelve foot – six inch front yard where twenty five feet – zero inches are required (as measured from a Future Width Line) and an average building height of twenty seven feet where 25 feet is the maximum allowed in an R-1-CSU-RV (Single Family Residence with Conditional Secondary Unit and Recreational Vehicle) District, located at 19942 Center Street, east side, approximately 51 feet north of Gem Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084C-1063-006-00.

Staff recommended approval. Variances had been granted in the area however none had been granted for height.

Member Spalding asked:

- Why a variance was required in this case
- 
- Would the applicant be required to dedicate a portion of front yard as a result of the Future Width Line
- How is the Future Width Line calculated
- How is average building height calculated

The Future Width Line was established in 1988 by the Alameda County Board of Supervisors. The Line is determined as 12 foot from the center of the road. The Future Building line is established 12 foot from the Future Width Line. The home was built prior to the implementation therefore the front yard setback is non-conforming. A variance is required if a non-conforming use is expanded. If the County ever decided to widen the road they would have purchase the property. The addition would not encroach into the current front yard setback. The height of the structure is artificial because of the slope at the front quarter of the lot. The proposed roof design is to accommodate solar access and an extension of the roof line. Height is determined by measuring from the peak of the roof to the lowest point of the finished grade. The neighborhood is entirely built out. Adjacent properties have one story homes. The addition would be screened by tall trees on the north side. Public testimony was opened.

The applicant, Mr. Van Mechelen said that as a result of the County widening Center Street the driveway was shortened. By lowering the garage floor, the driveway can be leveled out. It was not safe especially for older drivers. Member Spalding asked if he would be willing to dedicate more of frontage of the property and if there was an expansion of the building foot print. Mr. Van Mechelen said he hoped that it would not come to that but admitted the entire process had been confusing. Member Roos asked if the current foundation could accommodate the proposed addition. She also asked if the home would be two or three stories after the addition. Mr. Van Mechelen acknowledged the foundation would need improvements. The home would be two stories. The upper level contains windows that bring sun into the home. The design accommodates solar energy and utilizes photo-voltaic energy cells and hot water panels. He reviewed perspective drawings with the Board. Public testimony was closed.

Member Spalding motioned to approve the application. The front yard set back and building height were special circumstances. Granting the application will not be detrimental to public welfare. Condition #2 will be stricken and the Land Development Agency shall be omitted from Pre-Hearing Recommendation #3. Member Friedman seconded the motion. Member Palmeri was in support of the front yard setback variance but was in opposition to the building height portion of the variance. Motion carried 4/1.

7. **OLGA KOVAL, VARIANCE, V-11929** – Application to construct a new single family dwelling 27 feet in height where 25 feet is the maximum allowed in an R-1-CSU-RV (Single Family Residence with Conditional Secondary Unit and Recreational Vehicle) District, located at 3775 Seven Hills Road, south side, approximately 200 feet east of the end of Lamson Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084D-1320-001-02.

Staff recommended denial of the application. Member Palmeri commended Andy Young on a thorough staff report however it was somewhat confusing to follow. Public testimony was opened.

The applicant, Mr. Koval and his contractor explained:

- The original contractor that graded the site and poured the foundation had disappeared
- The height at one rear corner was not accurately measured by the contractor when the foundation was poured
- The excavation was modified and a basement added per Building Inspection
- Foundation tie downs were not installed at wall intersections

- The architect did not verify excavations or height

After not being able to locate the original contractor, Mr. Koval hired a new contractor. The contractor said he worked with his own architect and engineer to remedy the issues he inherited. He was not successful in contacting the original architect. The home is now close to completion. The height is 27 foot high in the rear corner which is two feet from the 25 required. Member Friedman commented that the highest point of the structure was at 30 and one half foot. He asked the contractor how he calculated height and if a change in roof pitch would lower the height. He said a measurement is taken at the back from the grade to the highest pitch of the roof and also in the front. The two measurements are then averaged. The vaulted ceiling is 12 foot high starting at the second level.

The former builder had already poured the concrete and begun work on the basis of approved plans by the Building Department. Mr. Koval concurred that the plans were approved prior to the excavation of the foundation. A building inspector came to the site and requested that we make a change. He wanted us to go lower, create a basement so as to reach harder soil. Member Spalding asked if the modification resulted in the increased height. Mr. Koval said he just followed the instructions of the inspector. Building height was not part of the discussion at that time.

A neighbor, Lane Davidson who lives at 19004 Schuster Avenue, spoke to the Board. His home is located behind the applicant's. The applicant's original plans showed 4 ½ feet between grade level of the two properties. Now it is 10 ½ feet. He would like to see the height lowered to avoid privacy issues for him and another neighbor. Member Spalding asked if his thoughts were regarding planning staff suggestions on page 5. He felt it did not mitigate privacy. He would like to a ten foot fence, a higher retaining wall on his property and a row of cypress to break up the area. Mr. Davidson has planted trees on his property however they would take 20 years to completely grow in. He showed photographs to the Board. If the project were approved he believed there should be something to compensate for the structure being built behind their homes. Jason Page who lives at 19012 Schuster Avenue asked the Board to review his concerns that were stated in the letter he submitted. Most of the issues involve privacy but the home is large in comparison to the lot. He disagreed that the excavation was accidentally dug incorrectly. The deck is too high for that to be the case. A civil engineer by trade he had issue with the roof height as well. If a berm is allowed on the property a retaining wall will be required which affects drainage. He requested that he be allowed to inspect the berm. Ultimately the berm does not help him since his fence would cover it. His property is lower than Mr. Koval's back yard but that option would not be as dramatic. Mr. Page summarized and said their request of the Board was denial but at minimum, trees, a new retaining wall and a new fence would be in order.

The applicant Mr. Koval spoke to the Board again. He did not believe privacy was the issue. A home shorter in height would not change the fact that the windows still look into his neighbor's yard. He purchased the lot before both of the neighbors. As a good will gesture he bought a new 6 foot fence for Mr. Davidson. Prior to that one did not exist. Mr. Page had a fence built by someone. For some reason the work stopped and it was left in disrepair. He is not at fault. His plans were approved prior to either neighbor moving in. He would like to move forward. Public testimony was closed.

Member Palmeri asked if Building Inspection verified the height of the structure. Staff confirmed they went to the site. It would be a disservice to the applicant and the neighbor if an accurate height has not been established. Member Palmeri proposed a continuance for two weeks. Building height should be verified. Documentation should be presented that a Building Inspector asked for a basement. Staff should also revisit the last bullet on page 5 of the staff report. This notation could be an option as a condition of approval. Staff suggested a 30 day continuance.

Member Spalding motioned to continue the application for 30 days. Member Ross seconded the motion. Motion carried 5/0.

1. **CENTRAL CHINESE CHRISTIAN CHURCH, CONDITIONAL USE PERMIT, C-8378** – Application to expand an existing church facility by the addition of two portable classrooms in an R-1-CSU-RV (Single Family Residence with Secondary Unit and Recreational Vehicle) District, located at 18381 Lake Chabot Road, south side, approximately 65 feet northwest of Dominic Drive, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084B-0472-011-03. (Continued from April 13, 2005; to be continued without discussion to June 8, 2005).

The Chair announced that testimony will take place however no action will be taken on the item.

Public testimony was opened. Mr. Robert Vetterlein submitted a letter to the Board. He had a request. The last time issues occurred at the property it took a long time to get them resolved. One year elapsed. Prior to that compliant it took 18 months to get resolution on the property. He would like to see a timely resolution. Another neighbor of the church, Jack Beal submitted a letter. He said the church put trailers on the property and did unauthorized grading which is causing problems on his property. The former side yard is being used as a drive way. Recent rains have caused water erosion on his property. He asked who he could contact regarding his ongoing issues while the application was going through the review process. The CVMAC approved one trailer on the property but now there are two. He said he contacted Planning and grading stopped but the work done thus far was illegal. He felt the applicant should take care of the current issues before their application can be further considered. Mr. Vetterlein added that a mosquito problem now existed as result of standing water.

Member Palmeri said that as a Board there were limited conditions that could be imposed on an applicant to remediate future problems. As far as old issues, if he believed he had sustained damage he strongly urged him to consult an attorney. Mr. Beal said he wanted to work with the church and hoped it would not come to that. If the applicant obtained the appropriate permits the issues should take care of themselves. A neighborhood petition was submitted to Planning Department expressing concerns about parking and hazardous conditions entering onto Dominick Drive. The Chair asked staff what the current status of the application was. The applicant must next submit a grading and drainage plan. Public testimony was closed.

**APPROVAL OF MINUTES:** Member Roos motioned to approve the Minutes of April 27, 2005 with corrections. Member Palmeri seconded the motion. Motion carried 4/0/1. Member Friedman abstained.

**STAFF COMMENTS & CORRESPONDENCE:**

Staff announced that the appeals of Comunidad Cristiana Cristo, C-8270, Hosanna Homes, C-8143 and Brian Martin, V-11877 are on the May 26, 2005 Board of Supervisors Agenda.

**CHAIR'S REPORT:**

The Chair requested that the election of Officers be added to the June 8, 2005 Agenda.

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

Member Palmeri asked staff to confirm possible dates for policy discussion with Tona Henninger and Chris Bazar regarding zoning violations on properties with open applications. Member Spalding agreed the discussions were timely.

**ADJOURNMENT:**

There being no further business, the hearing adjourned at 8:10 p.m.

---

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