

**MINUTES OF MEETING**  
**WEST COUNTY BOARD OF ZONING ADJUSTMENTS**  
**JUNE 8, 2005**  
**(APPROVED AUGUST 10, 2005)**

The Meeting convened at the hour of 1:00 p.m. in the Alameda County Public Hearing Building, 224 West Winton Avenue, Suit #111, Hayward, California.

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

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

**MEMBERS EXCUSED:** Ron Palmeri; Jewell Spalding, and Lester Friedman.

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

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

1. **JAMES GRIMES & JEANETTE BALDWIN, CONDITIONAL USE PERMIT, C-8312** – Application to allow 1) continued operation of a horse boarding facility for 63 horses; and 2) continued occupancy of two mobile homes for caretakers, in an “A” (Agricultural) District, located at 8018 Crow Canyon Road, west side, approximately 25 feet north of Norris Canyon Road, unincorporated Castro Valley area of Alameda County, bearing Alameda County Assessor’s Parcel Number: 0085-1750-006-06.
  
2. **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 and May 11, 2005).
  
3. **DANIEL and CONSTANCE DAVIS, CONDITIONAL USE PERMIT, C-8406** – Application to continue operation of a before and after school day care center, in an R-S-CSU-RV (Suburban Family Residence with Conditional Secondary Unit and Recreational Vehicle) District, located at 4779 Heyer Avenue, south side, approximately 482 feet west of Center Street, unincorporated Castro Valley area of Alameda County, designated Assessor’s Parcel Number: 084C-0700-001-02.
  
4. **MARCO A. NAVA, VARIANCE, V-11843** – Application to: 1) allow required parking on the driveway in the front yard setback when the garage is converted to living area; and 2) a five foot side yard setback where nine feet is required, in an R-1 (Single Family Residence) District, located at 21150 Hathaway Avenue, north east side, approximately 115 feet northwest of Mero Street, unincorporated Cherryland area of Alameda County, designated Assessor’s Parcel Number: 0429-0041-101-00.

5. **LAURA J. COMSTOCK, VARIANCE, V-11931-** Application to construct an attached two story addition so as to maintain a five foot side yard where 15 feet is required in an R-1-B-E (Single Family Residence with 10,000 square feet Minimum Building Site Area) District, located at 24544 Fairview Avenue, west side, approximately 55 feet south of Jelinic Drive, unincorporated Fairview area of Alameda County, designated Assessor's Parcel Number: 0417-0261-002-00.
  
6. **ALBERTO VALDIVIA, VARIANCE, V-11934** – Application to retain two existing dwellings and construct a new duplex so as to maintain an existing three foot setback from the common driveway to a dwelling wall where a ten foot setback is required in an R-S-D-15 (Suburban Residence with 1,500 square feet Minimum Building Site Area per Dwelling Unit) District, located at 16100 Mateo Street, northeast side, approximately 236 feet northwest of 162<sup>nd</sup> Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 0080-0054-042-00.

**A. Work Session**

- Policy Discussion

Time: 4:00 p.m.

Place: Alameda County Building, Conference Room  
224 West Winton Avenue, Suite #111, Hayward, CA 94544

**B. Set Matter**

Time: 5:00 p.m.

Place: Alameda County Building, Public Hearing Room  
224 West Winton Avenue, Hayward, California

1. **CHRISTOPHER and CHRISTY SCOTT, VARIANCE, V-11892** – Application to retain a roof tent (detached accessory structure) over an existing swimming pool covering 93% (866 square feet) of the required rear yard where 30% (280 square feet) is the maximum allowed with a height of 15 foot – five inches where 15 feet is the maximum allowed, in a R-1 (Single Family Residence) District, located at 1627 Via Sarita, north side, approximately 73 feet west of Via La Jolla, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 0411-0087-195-00. (Continued from January 26, February 23 and May 25, 2005).

Staff recommended denial of the application. The pool is 15 feet by 30 feet. Member Roos asked if the pool exceeded maximum coverage of the backyard. Staff responded that swimming pools were not subject to the same zoning set backs or coverage requirements. Public testimony was opened. The applicant, Mr. Scott acknowledged that the cover was in poor condition. Due to fact the application has been delayed for quite some time, and neighbors had complained he thought it best to wait until the Board rendered a decision before he proceeded further.

The current structure is made out of a tarp but his plan is to have a tent cover made. The placement of the

current cover is within zoning ordinance setbacks. Mr. Scott showed the Board his documentation which included a site map, a petition and a doctor's note. As a result of a back injury he swims for physical therapy. The petition contains names of people in the neighborhood that do not object to the pool cover. The pool has been at the property for a period of 40 years. The former owner of the home had a cover over it as well. Mr. Scott took the old cover down and replaced it when it fell into disrepair.

Board questions for the applicant were as follows:

- Is the existing fence in the backyard in compliance with the zoning ordinance
- Can a retractable, flat pool cover be used instead of a tent structure

Mr. Scott said he priced pool covers and the cost was \$40,000.00. His yearly salary was that amount so that design was not an option for him. He would like to have a custom canvas tent made. The cost would be more reasonable and the Board could select the color. The current fence replaced a dilapidated one that had been there for 30 years. All work was done to code. Cathy Ready, a member of the community spoke. She asked the Board to deny the application. She felt the structure was an abomination to the neighborhood. It also violated the Home Owners Association's CC& R's and the Neighborhood Preservation Ordinance. Her sister owned a pool and was able to obtain a cover at a reasonable price. She was also concerned that the item was continued from the Board's agenda several times. Member Palmeri said a recent discussion/workshop had taken place with staff. New policy was set that should prevent future delays. Another member of the San Lorenzo Village Homes Association, Nancy Van Huffel spoke. She concurred with the former speaker that the structure is in violation of the Homes Association's CC&R's. It is also in violation of fire code, and attached to a fence. The canopy is open in design therefore it does not hold heat in the pool. Thus far eight complaints had been received. In her 17 year tenure with the Association she had not seen anything as unattractive as the tent pool cover. If the Board decided to grant the application, the Association would take Mr. Scott to court. She closed and said enough was enough stating the Board should deny the application.

The neighbor next to Mr. Scott's home told the Board he had lived there for 55 years. He gave a history on the pool cover and back yard area. The former owner had a bubble top pool cover that was the same height as the current structure. It covered the pool for 33 years. The former owner worked for PG&E, and everything in the back yard had been built to code. When his mother passed away he did not have the money to repair the pool area. The pool was drained and eventually filled with frogs. Mr. Scott purchased the property and made the needed repairs. Visually the cover can only be seen from the house behind, not from down the block. No one complained until new people moved into the area. Public testimony was closed.

Member Roos motioned to adopt the staff finding of denial. There are no special circumstances present on the property that would allow such a large structure. Tentative Finding #2 shall be modified to delete the statement that other properties have received reduced rear yard variances.

Member Palmeri seconded the motion. Motion carried 3/0. Members Spalding and Friedman were excused.

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

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

**MEMBERS EXCUSED:** Lester Friedman.

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

There were approximately 63 people in the audience.

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

**ANNOUNCEMENTS BY THE CHAIR:** The Chair had 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. **BOB MASON, CONDITIONAL USE PERMIT, C-7756** - Application to modify Conditional Use Permit, C-7447 to allow: 1) storage for 20 vehicles; 2) increase from 125 to 145 horses; and 3) to add a feed store at an existing breeding, boarding and training facility for 125 horses, in an "A" (Agricultural) District, located at 24550 Palomares Road, east side, approximately ¼ mile south of Palo Verde Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 085A-2700-001-07. (Continued from December 11, 2002; February 26, March 26, April 23, May 28, June 25; July 23, September 10 and October 8, November 5, 2003; January 14, August 11, July 14, December 8, 2004 and January 26 and April 13, 2005; to be continued without discussion to July 13, 2005).

Member Palmeri asked when Conditional Use Permit, C-7756 would be heard by the Board. Staff reported that site visits had been conducted, and the application was more complicated than first anticipated. Planning has coordinated with other County Agencies to bring the item forward next month.

2. **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 July 13, 2005).
3. **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. (Continued from May 11, 2005). **WITHDRAWN**

1. **GRACIANO A. MORALES, VARIANCE, V-11930** – Application to retain an existing detached accessory structure with a 52 square foot bathroom where 20 square feet is the maximum, in an R-1 (Single Family Residence) District, located at 16774 Meekland Avenue, east side, approximately 60 feet north of East Lewelling Boulevard, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0413-0023-057-00. (To be continued without discussion to July 13, 2005).

Member Palmer motioned to accept the Consent Calendar as submitted. Member Roos seconded the motion. Motion carried 3/0.

#### 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, April 13 and May 11, 2005).

Planning staff recommended approval of the application. Public testimony was opened. A representative for the applicant, Mr. Jim Cosgrove, representing Cingular Wireless (formerly AT&T) was present. He thanked the Board and Planning Staff for working with him through many plan revisions. Public testimony was opened. Carolyn Umbly, a member of the church said she was in favor of the application. She asked the Board for a decision at tonight's hearing. Public testimony was closed.

Member Roos motioned to adopt staff's recommendations of approval. Member Palmeri seconded the motion. Motion carried 3/0.

Member Spalding arrived at 6:20 p.m.

2. **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 and May 11, 2005).

Staff recommended approval of the application, subject to the conditions contained in the staff report. Member Palmeri asked if the portables would be removed from the property once permanent buildings were erected. Staff responded that the applicant would address the question during their testimony. Public testimony was opened. Mr. Luk with the Central Chinese Church introduced himself. He said the church was seeking approval of two portable trailers to support the Sunday School Program and to spread God's word. Throughout the process he has learned patience and to seek God's guidance. He became aware through learning the history of the site there were ongoing issues. He believes that it is God's house. The church wants to reach out to people in need, labors to serve the Community and people as a

whole. The need for more space was urgent. They did not realize a permit was needed before placing the structures, and apologized for the error.

- A neighbor of the church addressed the Board. Mr. Jack Bail reminded the Board that he testified at the May 11, 2005 Hearing. He asked if the church had submitted a landscape and drainage plan. He also referred to a letter submitted to the Board, listing his concerns:
- The former side yard being used as a driveway is backed up with cars awaiting exit onto Lake Chabot Road
- Fumes from vehicles affect the tenants living in the cottages, on the other side of the fence
- The church stated that a survey of the property was conducted in 2005. When he asked for a copy of the survey to confirm boundary lines between the properties he was provided with a 2003 site plan

Mr. Bail would like to get all issues, including boundary lines resolved. This would be advantageous to both parties, especially if the properties were ever sold.

Mr. Veterlein another concerned neighbor showed a drawing to the Board. An engineer by trade, he pointed out the proximity of buildings on the site. A church had been on the site since the 1950's and he did not believe permits were ever issued. He questioned the urgency of the trailer placement. In his experience action has taken place on the property without follow-up from the County. Recorded deeds on the property also contradict one another. He urged the Board to take it's time to process the application correctly.

Mr. Charles Pheem said they are willing to work with the church but 18 neighbors signed a petition to have the Friday night service end by 9:00 due to members gathering and talking afterwards. No one objected to the hours of Sunday School. Member Spalding asked if there were drainage issues. Mr. Pheem confirmed there was soil erosion.

Ms. Judith Tang, a member of the church for five years spoke to the Board next. All of the issues brought up at the MAC Meeting had been addressed. The church was in agreement with the conditions contained in the staff report. She added that although the property had been unpaved for 52 years they would be willing to pave it. The trailers are not in use nor will they be utilized unless they receive approval. The driveway on the side of the property has been in existence for five years. If removed, they would not be able to accommodate additional parking. Public testimony was closed.

Member Spalding asked the following questions:

- How many times had the application come before the BZA.
- Why the applicant had not provided detailed plans for review
- How drainage issues would be resolved
- Are the existing site plans accurate

Member Roos asked if the traffic flow could be reversed to relieve the number of idling vehicles. Staff told the Board the testimony was taken from the Consent Calendar at May 11, 2005. This meeting

was the first consideration of the application. It was standard to submit plans throughout the application process. Submitting everything up front is too costly for most applicants. Mr. Luk responded that traffic flow could be reversed. He also met with a civil engineer today. The engineer will provide a detailed site plan and topographical study. Member Palmeri commented that a seven foot driveway is difficult to maneuver in. He asked staff if special set backs were applicable for churches. A sound wall erected next to the driveway would create privacy and reduce fumes. The Chair agreed a sound wall should be a condition of approval. Staff confirmed there were no special set back standards for churches.

Member Palmeri motioned that he could make the Tentative Findings for the Conditional Use Permit, C-8378. The Conditions should be modified to reflect that Friday night bible study should end by 9:00 p.m. The applicant shall submit a fencing plan that includes a sound wall design that mitigates noise, and any safety concerns. A drainage plan certified by an engineer is also required. The applicant must return for Board review in six months for project assessment. Member Spalding asked to amend the motion. Condition #11 shall be met within 60 days of approval. The condition shall also include the addition of a sound wall that should mitigate noise. Member Palmeri accepted the modifications. Member Spalding seconded the motion. Motion to approve the application with modifications carried 4/0.

3. **PATRICK LOVE, VARIANCE, V-11899-** Application to retain a converted garage so as to locate one required on-site parking space partially in the required front yard where not otherwise permitted in a R-1-CSU-RV (Single Family Residence with Secondary Unit and Recreational Vehicle) District, located at 3773 Cottage Court, north side, approximately 284 west of Parsons Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084D-1329-017-00. (Continued from January 26 and March 9, 2005).

Staff announced a phone call had just been received by the representative of the applicant who was involved in an automobile accident and could not attend the meeting. Mr. Love requested a continuance to the June 22, 2005 Meeting. Member Palmeri responded that he had received a request from the Castro Valley Municipal Advisory Committee to hear the application. He felt the additional input and information would be helpful.

Member Palmeri motioned to continue the application to the August 10, 2005 Meeting. The application will be heard at before the CVMAC prior to August 10, 2005. Member Roos seconded the motion. Motion carried 4/0.

4. **ANTHONY GALLARDO, VARIANCE, V-11916 –** Application to construct a detached accessory structure: 1) located four foot from the main building where six feet is required; and 2) covers 58% of the required rear yard where maximum 30% coverage is permitted, in a PD (Planned Development, Zoning Unit, ZU-1591) 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. (Continued from May 25, 2005).

Staff reviewed the application. The recommendation was denial. Public testimony was opened. The applicant, Mr. Anthony Gallardo thanked the Board for consideration of his application. He purchased the home in 1987. The only usable flat area in the back yard was about three feet that widened to 12 feet. His home was different from others in the neighborhood and his backyard had limited use due to the extreme slope. Other unique circumstances on his property are the following:

- Due to the presence of a more pronounced slope, the backyard area cannot be utilized without the use of decking and retaining walls
- Granting his application would not be a special privilege. His home is set back further than others in the neighborhood

The second proposed deck with permits would not affect neighbors because his deck backs up to the Cull Canyon Regional Recreational Area. On behalf of himself and his family, he asked the Board for approval.

Member Spalding asked for additional information. Mr. Gallardo said the model of his home is set back 28 feet further on the lot, creating less of a rear yard. Neighboring lots to the north and south have larger rear yards. His neighbors have more rear yard and can accommodate the standard setbacks. As the hill on his street rises the slope becomes more pronounced. His neighbor's house is ten feet below his and therefore has a less pronounced slope. He hired an engineer who designed the space underneath the deck and likes the idea of a workshop. The deck would allow him to enjoy his home. The retaining wall provides additional safety in the event of a fire behind his home. If the project were approved, the area of his yard would be approximately the same size as the neighbor's yard and deck. He also received preliminary approval from the Homes Association for the project.

Member Palmeri said he felt the need to honor the request of the Castro Valley Municipal Advisory Committee, to have the matter come before them. He agreed and felt it was appropriate to gain their ear to obtain input rather than deny the application. Member Spalding interjected. Her tendency was to grant the application. The applicant had made a case that the structure of his home was different from others in the subdivision. Approval of the application would not set a precedence she was inclined to approve the application. The applicant had made the case that his lot had less usable space than others in the neighborhood, due to the set back of his home and the lot slope. The case can be made the hill is steep and there are special circumstances. The Homes Association also granted approval of the application. The application appears to be straight forward. The Chair clarified that Mr. Palmeri commented as to obtaining feedback from MAC but had not made a motion as of yet. Member Palmeri then motioned to continue the application to the August 10, 2005 Meeting, to refer the application to MAC. Member Roos seconded the motion.

Member Spalding commented that if the motion passed, staff should provide a more detailed description of the questions raised by the applicant as to the difference in his yard vs. his neighbors. Staff should also research what the property limitations are in relation to other yards in the tract.

Member Palmeri said he would amend his motion to include further staff information to corroborate the uniqueness of the property. The Chair called for a vote. Member Spalding was in favor of approval of the application.

Member Palmeri withdrew his motion and substituted a motion to adopt staff's finding of denial of the application. The lot was configured as such when the original subdivision was designed. The lot was purchased by the owner knowing the rear of the property was sloped in design. Member Palmeri did not agree with Tentative Finding #1. All of the lots on the same side of the street were sloped and backed up to the canyon. Therefore the lot was not unique. He was in agreement with Tentative Finding #2. Granting the application would constitute a special circumstance. The applicant is proposing an accessory structure covering 58% of rear yard. Almost 60% of backyard will be covered, in addition to having a workshop underneath the deck. Member Roos seconded the motion of denial of the application.

Member Spalding spoke to Member Palmeri's motion. It was terribly unfair that anytime there was a slope or special circumstance an application should go to the MAC. The applicant should not be restricted from improving his property because it is on a cantilever. The zoning is not unique solely to Columbia Drive an applicant should have options. The subdivision was made on a hill as many are. That's why there are variances. The neighboring properties do not have a similar slope. Member Palmeri responded that no one else in the area had been granted a variance for 58% coverage of their rear yard. The Chair said his position was, yes the slope did constitute a special circumstance. Regarding, Tentative Finding #2, he agreed that 58% coverage of the rear yard where 30 % is the maximum allowed would be granting special privilege. The property could still be developed and remain within 30% coverage. The Chair called for a vote. Motion to adopt the staff recommendation of denial carried 3/1.

5. **LAURA J. COMSTOCK, VARIANCE, V-11931-** Application to construct an attached two story addition so as to maintain a five foot side yard where 15 feet is required in an R-1-B-E (Single Family Residence with 10,000 square feet Minimum Building Site Area) District, located at 24544 Fairview Avenue, west side, approximately 55 feet south of Jelincic Drive, unincorporated Fairview area of Alameda County, designated Assessor's Parcel Number: 0417-0261-002-00.

Staff reviewed the application. The recommendation was approval. Public testimony was opened. Ms. Laura J. Comstock said she like to construct a partial second story addition. The lot is narrow, fifty foot wide and 100 feet long. The back yard is an up hill slope. All of the homes in the neighborhood have 5 foot side yard setbacks. Larger, 15 foot side yard setbacks were established after the homes were built. The only opportunity to expand the living space in the home is to build upward. The rear can be expanded, however the setback would be limited to 15 feet. She corrected the reference in the staff report from the City of Hayward referral request. The existing garage can accommodate two cars. Board questions for the applicant were as follows:

- Are the garage doors were operable
- Will the footprint of the building be expanded

The applicant confirmed that the garage doors were operable. The footprint would remain the same. The reference in the staff report is to a current screened in room on the ground floor. The foundation of the home will be expanded. The screened in room will be expanded and become interior space. The current roof line will extend over it. Public testimony was closed. Member Spalding motioned to approve the application. Member Palmeri seconded the motion. Motion carried 4/0. Member Friedman was excused.

6. **ALBERTO VALDIVIA, VARIANCE, V-11934 –** Application to retain two existing dwellings and construct a new duplex so as to maintain an existing three foot setback from the common driveway to a dwelling wall where a ten foot setback is required in an R-S-D-15 (Suburban Residence with 1,500 square feet Minimum Building Site Area per Dwelling Unit) District, located at 16100 Mateo Street, northeast side, approximately 236 feet northwest of 162<sup>nd</sup> Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 0080-0054-042-00.

Staff reviewed the application and recommended approval. Member Palmeri asked for an explanation as to why the existing dilapidated structure on the property had not been demolished. He is troubled by the fact it does not appear to have a foundation.

Additional questions from the Board were the following:

- Is the Variance for the three foot set back from the driveway to the original home at the entrance of the lot
- Are any other dwellings on the property in front of the Board for their consideration

Staff told the Board the Building Department declared the structure sub-standard in 1971. The owner was required to bring the structure up to code or remove it. The only issue in front of the Board at this time was the three foot set from the common driveway to the home at the front of the parcel and not the proposed duplex. Member Palmeri said the question is revisited as to if the Board should discuss the future development plans of properties. The Chair asked the Board to focus on what was before them. Member Roos said she understood the confusion. She had visited the property and wanted to know the status of the structures at the rear of the property.

Pubic testimony was opened. The project designer spoke on behalf of the applicant, Mr. Valdivia. When the project was started they did not realize a variance for the driveway setback was needed or that the dilapidated structure was slated for demolition. After entering the dilapidated structure it was obvious that the only thing salvageable were a few floor boards. The Building Department will make a determination regarding the garage as to its viability. Four structures exist on the parcel. The home in the front, the dilapidated building that will be demolished, the garage, and a home located in the rear. The home in the rear will remain as well. Public testimony was closed.

Member Palmeri said Tentative Finding #2 was not acceptable. Potentially, granting a variance because others with similar existing conditions have been granted is not a finding. If the application was granted the Board would need to amend Finding #2. Member Palmeri motioned to approve the application with the modification of Tentative Finding #2. There is a particular uniqueness to this property. The Finding shall simply state no. A condition that requires the demolition of the dilapidated structure within a period of one year or prior to the construction of any new structures on the property, whichever occurs first shall be added. Member Roos seconded the motion. Motion carried 4/0. Member Friedman was excused.

#### **ELECTION OF OFFICERS**

The gavel was given to Staff Member, Phil Sawrey-Kubicek for the election of board officers.

Frank Pexioto, the current Chair nominated Ron Palmeri for the position of Chair  
Member Spalding nominated Frank Pexioto for the position of Chair

The vote for the position of Chair was 3/1. Frank Pexioto was nominated to the position of Chair.  
Member Friedman was excused.

Member Spalding nominated Ron Palmeri for the position of Vice Chair.  
Member Palmeri nominated Lester Friedman for the position of Vice Chair

The vote for the position of Vice Chair was 3/1. Ron Palmeri was nominated to the position of Vice Chair. Member Friedman was excused.

**APPROVAL OF MINUTES:** The approval of the May 25, 2005 minutes will be moved to the June 22, 2005, Meeting.

**STAFF COMMENTS & CORRESPONDENCE:** Staff submittted no comments or correspondence.

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

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

Member Spalding asked that the secretary for the Board remind her when the meeting schedule changes from the standard times.

Member Ross asked staff if her replacement had been selected. Staff responded that official word had not been received. Member Roos said she understood Nate Miley had someone in mind, and there should be word soon.

**ADJOURNMENT:**

There being no further business, the hearing adjourned at 8:00 p.m.

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