

**MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
JULY 9, 2008
APPROVED ON JULY 23, 2008**

The Regular Meeting was held at the hour of 6:00 p.m. in the Alameda County Building, 224 West Winton Avenue, Hayward, California.

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

MEMBERS EXCUSED: Chair; Jewell Spalding; Vice Chair, Frank Peixoto; Members, Dawn Clark-Montenegro, Kathy Gil and Ineda Adesanya.

OTHERS PRESENT: None.

FIELD TRIP: Board Members visited properties on an individual basis.

1. **JOSE & GUILLERMINA RAMIRO, CONDITIONAL USE PERMIT, C-8747** - Application to allow continued operation of a tavern, in an ACBD – SP – TC (Ashland and Cherryland Business District Specific Plan-Transit Corridor) District, located at 15698 East 14th Street, east side, corner north of Plaza Drive, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080-0034-007-00. **Staff Planner: Richard Tarbell.**

2. **JOE SILVA, VARIANCE, V-12117** - Application to allow construction of an attached addition with a five foot side yard where 10 feet is required, in an R-S-SU (Suburban Residential, Secondary Unit) District, located at 339 Medford Avenue, approximately 220 feet east of Lowell Avenue, and 300 feet west of Haviland Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 429-0014-010-00. **Staff Planner: Damien Curry.**

REGULAR MEETING: 6:00 p.m.

MEMBERS PRESENT: Chair; Dawn Clark-Montenegro; Vice Chair, Kathy Gil; Members, Jewell Spalding and Ineda Adesanya.

MEMBERS EXCUSED: Member: Frank Peixoto.

OTHERS PRESENT: Rodrigo Orduna, Senior Planner; Yvonne Bea Grundy, Recording Secretary

There were approximately 7 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: The Chair made no special 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. **RICHARD GOLD, CONDITIONAL USE PERMIT, C-8640** – Application to allow continued operation of a “B” Type Service Station, in an ACBD – BDI (Ashland and Cherryland Business District Specific Plan- Business Industrial) District, located at 594 East Lewelling Boulevard, north side, terminus, north of Boston Road, unincorporated San Lorenzo area of Alameda County, designated Assessor’s Parcel Number: 413-0027-058-02. (Continued from September 26, October 24, November 14 and December 5, 2007; January 9, February 27 and April 23, 2008; to be continued to July 23, 2008). **Staff Planner: Pat Anekayuwat.**
2. **T-MOBILE / HARD, CONDITIONAL USE PERMIT, C-8734** – Application proposal to replace an existing 25 foot light pole with a new 35 foot pole with lights and four concealed antennas. A new equipment enclosure is also proposed to be located nearby. The subject parcel contains approximately 0.91 acres and is zoned R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, RV Parking) District, located at 18988 Lake Chabot Road, east side, north east of Keith Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor’s Parcel Number: 084D-1305-012-00. (To be continued to September 10, 2008). **Staff Planner: Jeff Bonekemper.**
3. **ANIL SINGH, CONDITIONAL USE PERMIT, C-8737** – Application to allow the expansion of an auto repair facility in the CN District (Commercial Neighborhood) District. Applicant requests an existing two car canopy and a 40 foot container unit be allowed to remain on the subject property, the subject parcel contains approximately 0.24 acres and is located at 19592 Center Street, east side, corner of Edwards Lane and Center Street, unincorporated, Castro Valley area of Alameda County, designated Assessor’s Parcel Number: 084C-1062-024-00. (Continued from May 28 and June 25, 2008; to be continued to September 10, 2008). **Staff Planner: Jeff Bonekemper.**
4. **BRIAN KHO, VARIANCE, V-12112** - Application to allow construction of an attached garage creating an average height of 32 feet where 25 feet is the maximum allowed, in an R-1 (Single Family Residence) District, located at 14625 Midland Road, west side approximately, 420 feet north of Altamont Road, unincorporated Hillcrest Knolls area of Alameda County, designated Assessor’s Parcel Number: 079-0004-011-02. (Continued from June 11, 2008; to be continued to July 23, 2008). **Staff Planner: Jeff Bonekemper.**
5. **BRIAN KHO, VARIANCE, V-12113** - Application to allow construction of an attached garage creating an average height of 32 feet where 25 feet is the maximum allowed, in an R-1 (Single Family Residence) District, located at 14641 Midland Road, west side approximately, 300 feet north of Altamont Road, unincorporated Hillcrest Knolls area of Alameda County, designated Assessor’s Parcel Number: 079-0004-011-03. (Continued from June 11, 2008 to be continued to July 23, 2008). **Staff Planner: Jeff Bonekemper.**

Vice Chair Gil motioned to accept the Consent Calendar as submitted. Member Adesanya seconded the motion. Motion carried 4/0. Member Peixoto was excused.

REGULAR CALENDAR

1. **RUSSELL ZEN, VARIANCE, V-12095** – Application to allow: 1) a six foot, eight inch fence where six feet is the maximum height allowed; and 2) Recreational Vehicle parking in the side yard, located at 2954 Hidden Lane, north side approximately 150 feet west of Hansen Road, unincorporated Fairview area of Alameda County, Assessor's Parcel Number: 426-0030-058-00. (Continued from June 25, 2008). **Staff Planner: Shahreen Basunia.**

The Applicant submitted a speaker card requesting a continuance. The Chair Person moved the item to the beginning of the Agenda.

Staff explained that the variance request is to allow an existing 6 foot fence. The fence is located on a retaining wall. The height including the wall is averaged at 5 foot, 4 inches. Staff recommended denial of the fence height portion of the application. There are no special circumstances present on the property. The applicant can meet the Zoning requirements. Staff also recommended denial of the request for RV parking in the side yard. The present entrance to the RV parking is via a pedestrian handicapped ramp at the corner of the property. The Applicant may be able to find an alternate method to enter the property. However the RV would still be parked in the side yard, which the Zoning Ordinance does not permit. The RV can be parked in the rear yard. Granting the variance to park in the side yard would grant special privilege. The Applicant states in a summary of their application that there are many fences that exceed the Ordinance height limit in the neighborhood, as well as RV parking. Staff pointed out that the other recreational vehicles in the neighborhood are likely without parking permits. The Applicant would like additional time to review the staff report. The next BZA Meeting will be held on August 23, 2008. Member Spalding said that other fence height variances had been granted in the area. Staff responded that in general height variances are granted if there is steep or unique topography or a lack of privacy that it is warranted at that specific location. There is a retaining wall on the property. However the slope of the parcel is such that an alteration in fence height is not warranted. From the street side, the fence would be over 6 feet tall. From the property side the fence would be 5 foot, 4 inches. This is as a result of the retaining wall. Preliminary questions for staff were as follows:

- Does the overall height include the retaining wall
- Did the installation of a retaining wall cause a slope on the property
- Does the paved area of the property exceed the 50% maximum Ordinance threshold
- Is the side yard considered a "street side" yard
- Will the existing curb cut be used access the RV Parking
- How many other height variances have been granted in the area
- Can the height portion of the application be separated from the parking request

Staff confirmed that the fence is a side yard fence. The height of the retaining wall has to be deducted from the allowable fence height. Staff did not have information regarding other variances, by parcel location. That data can be provided when the application returns for consideration. The present proposal is to use the existing curb cut. The Applicant can explain how they might offer different parking solutions. Public testimony was opened.

Mr. Zen requested a continuance to the next hearing. He received the staff report on Monday, July 5th. This was insufficient time to review the materials. He works, and has a family. In regard to other fences that exceed the Zoning Ordinance. He had given addresses of existing variances to the original staff

planner. He believes the original planner had discovered 2 variances. The RV is located in a street side yard. Mr. Zen said he was unsure as to what area to measure. He arrived at 36% coverage with one calculation method and 42% coverage using another calculation method. He will verify the proper technique with staff. Mr. Zen said it would also be difficult to present his project if limited to a 3 minute presentation. It may be more appropriate to split the request into 2 separate variance applications. The Chair explained to Mr. Zen that the Applicant is typically given more than 3 minutes, if necessary for their presentation. Counsel confirmed that the Board could vote on each portion of the application separately. However the application would remain one variance. Public testimony was closed.

Member Adesanya motioned to continue Variance, V-12095 to the August 27, 2008 Meeting. Member Spalding seconded the motion with the modification. A referral should be sent to the Fairview Community Club. Member Adesanya accepted the modification. Motion carried 4/0. Member Peixoto was excused.

2. **T-MOBILE, CONDITIONAL USE PERMIT, C-8733** - Application to consider a petition to allow replacement of an (e) telecommunications facility within the Ashland Cherryland Business District Specific Plan (T-C Zoning) District, located at 15770 East 14th Street, north east side, approximately 150 feet north west of Thrush Avenue unincorporated Ashland / Cherryland area of Alameda County, designated Assessor's Parcel Number: 080-0035-104-00. (Continued from June 11, 2008). **Staff Planner: Richard Tarbell.**

Staff recommendation was denial. Staff then reviewed a history of permits. Conditional Use Permit, C-7341 was granted in 1998 for a temporary telecommunications facility. The facility installation is on wheels. The permit was approved again in 2006 and 2007 for a temporary facility. When the use permit was renewed in 2007 the applicant agreed they would look for a permanent site. Staff noted a correction to the staff report. The typographical error on page 4, Pre Hearing Recommendation shall be modified to state denial of the application, as opposed to approval of continued operation. The Alameda County Redevelopment Agency has implemented an improvement plan for the area. This includes façade improvements. Alameda County Public Works has upgraded the public right of way with sidewalk improvements including, street light poles, and benches. The telecommunications facility does not fit esthetically, due to the prominent location and the substantial investment of public and private business funds to improve the overall area. The Applicant contends that the proposed stealth design does fit with the surroundings. However they have requested a continuance to identify alternate designs or locate another site if the current proposal is not acceptable. Staff assessment is that any design still employs a 45 foot tall pole. Other telecom carries have telecom antennas mounted onto existing light poles. Perhaps the applicant can co-locate. However the recommendation is denial at the present location. Member Spalding asked staff to confirm the reference in the staff report that the temporary pole had been at the site for 10 years. Staff confirmed that was the case. Member Spalding commented that the existing 45 foot high pole was highly unattractive. In addition the Applicant has had 10 years to research alternatives. Public testimony was opened.

Ms. Julie Ho was present on behalf of T-Mobile (Concord). She thanked the Board for their consideration. Ms. Ho clarified that the 2007 permit renewal was for the temporary facility. The present hearing was to consider the permit for a permanent telecom installation. The permanent pole will be a camouflaged, flush antenna design. It will not protrude like the temporary installation design. She acknowledged that the Redevelopment Agency had issues based on recent façade improvements, and the close proximity to the street frontage. However she asked the Board to consider the stealth aspect of the design. T-Mobile is also willing to work with staff on further design options. The current location is needed to achieve the Coverage Objective for the local area. T-Mobile does have a telecom site at the

Bayfair BART Station. However placing more equipment at Bayfair BART will duplicate coverage. The current site is also needed. Ms. Ho said one solution may be to move the permanent installation further back onto the 150 acre site. She is keenly aware of the Redevelopment Agency concerns about visual impact. This would reduce visibility. T-Mobile would also be willing to continue the application, to consider alternatives. Ms. Ho presented color photo simulations of the permanent antenna. She pointed out that the smaller antennas were flush onto the tower. Board questions were as follows:

- Are antennas that are not flush in design allowed in the County Right of Way
- Can the antennas be placed onto the light poles within the County Right-of-Way
- Can the fencing surrounding the temporary site be replaced
- Can an alternate location be found for the facility
- Will the equipment cabinets for the new facility remain on the site
- If the equipment were relocated to the rear of the site would it be close to area homes
- What is the coverage area of the proposed permanent equipment
- Can lines from the cabinet be under-grounded to an antenna if located street side
- If the CUP is denied is there a waiting period enforced before a new application can be submitted
- If the use being considered is a "replacement" is the new equipment considered a "new use"

Ms. Ho said that finding an alternative location for the site would require a continuance. The ground equipment cabinets and antenna pole must be within close proximity to operate. The new antenna pole would not have wing like structures protruding. The entire pole would be flush. The cabinets are currently located on the PG&E sub-site. To under-ground wiring, research must occur on the part of PG&E to ensure there is no encroachment, on existing equipment. There may also be public sewer lines etc. under the sidewalk. T-Mobile Engineers could work with the various agencies involved to determine the feasibility. Staff acknowledged that the equipment cabinets would probably remain on the property. One consideration regarding the placement of the equipment cabinets based on the photo simulation. The cabinets could be moved further back on the lot. However they would remain unsightly. The Chair said that she drives by the site daily. The installation is 25 feet from the street and very noticeable. Ms. Ho pointed out that landscaping could be added to soften the area, and the existing fence. The fence could also be replaced with a new design. Staff reminded the Board that Telecom Guidelines do not allow the denial of a use permit solely as the result of Radio Frequency Transmissions in close proximity to homes. Closer proximity may generate additional interest from area residents. There is a height limit for antenna installations at a 45% angle on top of buildings. However this is not a building mounted design. The Chair pointed out that the prior permit C-8636 did require landscaping. The Applicant did not comply with the prior conditions of approval. Ms. Ho was unsure of the average coverage area of an antenna pole. This proposed installation would have 3 antennas shooting in various directions. It would be necessary to consult with T-Mobile Engineers to determine coverage radius. T-Mobile does have another mobile site at Bayfair Bart. Ms. Ho then requested a continuance to explore further options. Public testimony was closed.

Member Spalding urged the Chair not to entertain a continuance. She could not support a continuance because the Applicant is in violation of the current Conditions of Approval. Landscaping at the temporary site was never installed. The Applicant has had 10 years to locate an alternate site. The Applicant has the ability to come forward with a new application that would satisfy issues of blight, in a new application. The Applicant's organization is well staffed, and has the expertise to meet the Conditions of Approval and design criteria. They appear to have taken the past had 10 years for granted. The Chair asked staff if there was a waiting period if the application were denied. She acknowledged that the existing equipment cabinets are unsightly. She dives by the location daily. The site is unkempt, and the prior landscaping requirement was not met.

Staff responded that a light pole mounted design is possible. Other carriers have employed the method however a separate application must be submitted. The Applicant must also negotiate with the Alameda County Public Works Agency regarding any Right of Way issues, and equipment attached to existing light poles. If an application is denied, there is a possible 1 year waiting period. However if a new application is filed, the 1 year waiting period would not apply. There is not sufficient clarification in the Ordinance language as to what constitutes a “new application”. Level of modification is not specified. Further consideration and interpretation of the application would be given when submitted. If an application was submitted for a different site, a waiting period would not be imposed. The Chair did not want to preclude the possibility of light pole installation. Counsel said that it appeared that the equipment cabinets would remain at the current location. The BZA would make the determination as to if the separation of poles and equipment constitutes the “same site”. Staff offered an additional point of clarification. The Board may direct that the present form of the application is not approvable. The Board could then direct what might be approvable. Such as: equipment cabinets remain on the current site, and the antennas located on existing lamp pole within the street etc. The Applicant would still have to negotiate with Public Works as to feasibility. Member Spalding said the same could be achieved by the Applicant filing a new application. Counsel acknowledged that was also possible. However the Applicant may be bound by the 1 year waiting period.

Member Adesana asked if permit C-8733, currently before the Board was new, or if it was to replace the prior permit, for the temporary structure. Staff confirmed that the application before the Board was for new equipment that would replace the temporary equipment (Conditional Use Permit, C-8636). Member Adesanya acknowledged that the Applicant had not met all of the prior Conditions of Approval. However one of the prior Conditions was to submit a new application for a permanent facility. The present application (C-8733) is a “new application”. She did not think the application was approvable in its current form. However she would support a continuance to allow the Applicant additional time to submit a design that might be approvable. At that juncture the Board could render a decision.

Member Spalding was concerned because it was still undetermined how a new proposal would be tied to the present site. Member Adesanya agreed that she was also concerned with the possible impact. A revised design may take advantage of the existing light pole in front of the site which could reduce visual impact. If a new proposal is unacceptable, Members can vote accordingly. Staff further clarified that they did not want to force Public Works to locate the antenna onto existing light poles. Staff has no control over possible viability. Negotiation must take place with Public Works. They would have control over the outcome. Member Spalding said she still had issue with a continuance. The Applicant had an opportunity to speak with Public Works and never pursued the option. If negotiations take place with Public Works and an agreement cannot be met. Further delays will occur. T-Mobile should do what ever research is appropriate, and then submit a new application. Every year since 2000, approvals have been granted in 1 year increments. This creates more work for staff. She believed a new application submission was appropriate.

The Chair said she was also concerned with granting a continuance. If the proposal is to retain the cabinets at the present site, the problem remains the cabinets are unsightly. Thus far the Applicant has not satisfied the prior Conditions of Approval requiring, landscaping. Coverage was probably needed in the general vicinity. In addition she did not want to preclude the possibility utilizing the light pole, in the Public Right of Way. The Vice Chair said perhaps there was a reason the Applicant, did not follow through. Member Spalding countered that the Applicant was capable of installing the landscaping. She added that the light pole was within the jurisdiction of Public Works. Public Works would have to consider placement of the antenna. To clarify, staff then read the Ordinance Rules regarding application denial. “no application for a variance or conditional use or site development review which has been denied wholly or in part shall be re-submitted within 1 year from the date of the final order of denial, accept on the grounds of new evidence or proof of changed conditions found to be valid by the officer or

public body that issued such final order”.

Member Spalding motioned to uphold the staff recommendation of denial. She clearly agreed with the staff analysis. The Applicant cannot meet Tentative Finding #2. The proposed installation does not fit visually or integrate well with the surrounding commercial corridor. Regarding Tentative Finding #3, The use will be detrimental to the neighborhood. The Vice Chair seconded the motion. The Chair asked for a modification to the motion. The typographical error in the Pre Hearing Recommendation which states, approval of the continued operation shall be corrected. The entire section shall be stricken. Member Spalding clarified that staff already noted the typographical error in their presentation. This correction would not affect the motion on the floor. The Chair accepted the clarification.

The Chair restated the motion to uphold the staff recommendation of denial of Conditional Use Permit, C-8733. Motion carried 3/1/0. Member Adesanya was not in favor of denial of the application. Member Peixoto was excused.

3. **JOE SILVA, VARIANCE, V-12117** - Application to allow construction of an attached addition with a five foot side yard where 10 feet is required, in an R-S-SU (Suburban Residential, Secondary Unit) District, located at 339 Medford Avenue, approximately 220 feet east of Lowell Avenue, and 300 feet west of Haviland Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 429-0014-010-00. **Staff Planner: Damien Curry.**

Staff reviewed the history of the property. The recommendation was denial. There are 4 units on the property. They do meet the density requirement the District. A secondary unit is allowed. The property received a variance in 1965 to reduce the driveway requirement from 20 feet to 18 feet, and a reduction of the side yard from 10 to 8 ½ feet. The side yard variance was to accommodate the building as it existed in 1965. Alameda County Fire will not object to the project if the Applicant complies with all codes. Final approval is contingent upon review of the final construction plans. Standard side yard access is 10 feet for emergency vehicle access. The proposal is expansion of two units, located at the front of the property. One unit would add a laundry and utility storage. The other would add storage for a water heater and utility. The lot is flat and similar to surrounding lots in Cherryland. Staff believed there are alternate sections on the lot, on which to place the proposed additions. Therefore the Applicant cannot meet the required findings. Initial questions were as follows:

- How many units total are currently on the property
- What was the recommendation of the Cherryland Association

Staff said the Association had made contact via e mail, and had no objection to the project. Unfortunately the correspondence was not on file. There appears to be some confusion as to the total number of units on the property, including a studio unit. The Applicant should be able to clarify during public testimony. Staff then distributed a full set of plans for the Board to review. Public testimony was opened.

Mr. Joe Silva described the property. The lot is long and narrow. The front building is separate from a duplex located at the rear of the parcel. The goal is to add two small additional areas in the side yard to accommodate a laundry, and storage area. This will provide each unit, an individual laundry area. An attached laundry is more desirable for tenants. Mr. Joe Silva has been a Cherryland resident all of his life. He manages the property, as well as other family holdings. Based on his years of experience he knows that laundry facilities are important. He then showed photographs of the property. Mr. Silva would also like to remove the existing aluminum storage structures. The buildings are in existence which limits

flexibility. The variance request is necessary as a result of the existing configuration. A driveway is located on the west side of the duplexes. Parking is located on the south side. It would not be feasible to eliminate parking, as parking in Cherryland at a premium. The goal is to improve the property. He is the 3rd Generation of his family to live in Cherryland. They are not looking to sell the property. This is why they would like to attach the laundry facilities. The Cherryland Association did not object to the project. The project would not affect their neighbors. The structures are designed as single story, and will not cast shadows onto to the neighboring property. A 25 foot driveway with an easement faces the Silva's property. Board Members had the following questions for the Applicant:

- Have the Applicants read the staff report
- Do the Applicants live on the property
- Can an interior door be created between the existing structure and the proposed laundry facilities
- Which unit would access the proposed rear laundry facility
- Is the studio apartment currently occupied
- Is there an easement on the property
- Is there an existing storage facility on the property
- What is the size of the garage on the property
- Will the existing backyard remain on the property
- Are the Applicants aware there are dead trees on the property
- Is there a plan to add further landscaping

Joe Silva clarified that a 4 car garage did exist on the property. The garage is physically the size of 4 cars. Realistically only 2 cars can access the garage. The garage space is currently being used as storage related to upkeep of the property. The proposed storage adjacent to the studio unit would be utilized by the occupant, of the studio unit. The existing aluminum storage units will be removed. Each rear unit will have access to an individual laundry and storage area. As a result of a long term tenant in one of the units, it would not be feasible to undergo major alteration. The options are limited while the unit is occupied. Any future plans to join the laundry would have to occur once the unit is vacant. Two laundry facilities will be provided for the units at the front of the property. The rear units already have laundry facilities and will just have storage units added. There is no easement on the property that the Silva's own. There is an easement located on the neighboring lot next door. Nothing will be built on the neighboring property within that zone. This ensures that the proposed project will not affect the neighboring lot. There are no current plans to build on the backyard space. The area has been used as a garden. The current plan is just to improve the property. In the distant future that could change.

Mr. Ron Silva confirmed that he had read the staff report. He testified that he purchased the property in 1971. There are two duplexes on the site. The site had a communal laundry. The original owner set the duplex structure further back from the frontage than typically seen. There had been an 18 year tenant in the front unit. Now that the tenant has moved he would like to complete construction during vacancy. The proposal was designed by an architect featuring a low pitched roof. This design should optimize the existing 10 foot side yard. Perhaps the area can also be used as a small play yard for the tenant's children. Eliminating the passé aluminum sheds will be an improvement. Mr. Silva owns many homes in Cherryland. He likes to keep the properties in excellent condition. Periodically the properties also need to be upgraded. He wants to maintain the rentals for the next generation of property managers, and tenants. This is the opportune time to upgrade the property. Mr. Silva said many homes in the area such as the "Harder House" have reduced side setbacks of 5 feet. Mr. Silva felt his property should have the same benefit as the Harder House, located across the street. Ron and Joe Silva do not live on the property. The units are not quite large enough. However Ron Silva wants to keep the property a desirable place to live. Recently some of the trees have been attacked by an invasive insect. The dead trees will be removed, and the area replanted. Mr. Silva said that he did not have a specific landscape plan. Typically

that is not required in conjunction with the addition of a laundry room. He owns many properties and has experience with lots of plants. Mr. Silva said he will continue to maintain the property. Mr. Silva preferred not to be pinned down to a specific landscape design. Care must be taken to avoid sewer lines and maintain tenant privacy. He would like to retain some flexibility. As far as the variance request. The building is already in existence. Member Spalding asked Ron Silva if objected to a continuance to further work with staff to review project design options, and compile a landscaping plan. Mr. Silva referred to plans of the property. Explaining, there are not a lot of alternatives, unless the parking area was removed.

Mr. Joe Silva returned to testify. He met with the staff planner at the site, and talked with him on the phone. The staff planner recommended the laundry units be added in the back of the property, and the front of the property be left open. During the brief site visit he believed the Planner did not fully understand parking on the site. They did not discuss parking in detail. If the laundry units were placed at the complete rear of the site, windows would be eliminated, and circulation affected. This could reduce the desirability of the units, and inter-fear with existing parking. Joe Silva said a continuance would be a challenge. He was not opposed to working with staff however he did want to continue to leave the property vacant. He was not told that project approval was contingent upon a landscaping plan.

Ron Silva reiterated that the laundry rooms would be a nice addition for the tenants. He also owns property at 156 Blossom Way. His goal is to build up Cherryland. The addition he is proposing will not affect the neighbors. A neighboring property that was recently developed next to his home at 156 Blossom Way went into foreclosure. Mr. Ron Silva thought it would be an imposition to continue to leave the property vacant. The property could become vulnerable to vandalism. He wants to invest \$12,000 per laundry room. This would also eliminate the sliding glass door on one the units, and the aluminum storage units on the property. In the future the laundry can be joined to the units. To connect the proposed laundry room is not possible at this time due to another long time tenant. Overall the project will increase the desirability of the property. This is in contrast to many of the undesirable properties in Cherryland. Many of the homes were constructed in the 1920's, and have undergone poorly executed remodeling jobs. The Silva Family goal is to improve the property, and the neighborhood. Mr. Silva asked the Board to approve the project. The Chair asked Ron Silva if he was aware that the staff recommendation was denial. The BZA is obligated to make required findings when considering applications. Mr. Silva acknowledged the staff recommendation. None the less he hoped common sense would prevail. Member Spalding told Mr. Silva the Board was attempting to provide him some maneuverability by working with staff. Perhaps they could determine a proposition that would garner an approval recommendation. Mr. Silva responded that he wanted to move forward with the project so the roofs would not be torn off during the winter months. Member Gil acknowledged that she knew the Silva's through the course of the Cherryland Association as well as being a fellow resident of the area. She confirmed that his properties were all immaculate. It may seem illogical however the BZA had to make decisions based upon Ordinance rules. The Cherryland Association may not have opposed the application based upon who Mr. Silva is. However the property Zoning does not allow a reduced side yard. Member Spalding added that even if the outcome of today's hearing was a vote of denial, and the applicant appealed the decision. There would be a time lag before the item appeared on the Board of Supervisor's schedule. Mr. Ron Silva asked if the BZA would consider a straw poll. The Chair told Mr. Silva polling was not allowed. However the Board could take a vote.

Member Adesanya commented that she lived on Cherry Way for a number of years. She would like to support the application based upon "common sense". However each application must meet certain findings. Ron Silva responded that the setback would be allowed if the Zoning were PD (Planned Development). Member Spalding said that might be the case. Perhaps Mr. Silva wanted to withdraw this application, and submit another type.

County Counsel said that the Board of Zoning Adjustments was to provide relief based on requirements

for current zoning. The property in question is not zoned PD. Mr. Silva responded that a lot of spot zoning had occurred in Cherryland. He sat on a committee to eliminate spot zoning within the Cherryland area. Member Spalding agreed the practice had been quite controversial however that issue was not before the Board. The Chair asked Mr. Silva again if he would like to consider a continuance. Member Spalding told the applicant that by working with staff a solution may be found that would eliminate the need for a variance, all together. Mr. Silva agreed to accept a continuance. Public testimony was closed.

The Vice Chair motioned to continue Variance, V-12117 to July 23, 2008. Counsel interjected, adding clarification that the continuance was to allow the applicant to confer with staff to explore various alternatives. Member Spalding seconded the motion. Motion carried 4/0. Member Peixoto was excused.

APPROVAL OF MINUTES: Vice Chair Gil motioned to continue the Minutes of June 25, 2008 to the July 23, 2008 Meeting. Due to Member Peixoto not being present, and the Chair not receiving her copy of the Minutes. Member Adesanya seconded the motion. Motion carried 4/0. Member Peixoto was excused.

STAFF COMMENTS & CORRESPONDENCE: Staff had no announcements.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS: Board Members asked which Staff Members were present at the Board of Supervisor's Hearing. Rodrigo Orduna acknowledged that he was present. He did not have a complete list of all Planning Appeals considered: The Billboard Ordinance was continued to the July 22, 2008 Hearing. Member Spalding thought it was unfortunate that directional signs did not become part of the proposed Ordinance. Mobile Restaurants were approved for Conditionally Permitted use in areas zoned, Office Commercial, and Light and Heavy Industrial. Originally the BZA vote on Variance, V-12072, Menezes resulted in a tie. The application was referred to the Planning Commission. The Planning Commission decision to allow a height of 27 feet was overturned by the BOS. The variance was denied.

The Chair added that she had listened to a portion of the proceedings. The BZA finding of approval was upheld for Variance, V-12071, Lesur. However the conditions were altered. One added condition is that any further changes to the site will require a site development review. The BZA finding of denial was upheld regarding Variance, V-11982, Love.

ADJOURNMENT: There being no further business, the hearing adjourned at 8:15 p.m.

ALBERT LOPEZ - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS