

MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
JANUARY 11, 2006
(APPROVED FEBRUARY 8, 2006)

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

FIELD TRIP: 1:30 p.m.

MEMBERS PRESENT: Members Frank Peixoto, Chair.

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. **ERIC AND LORI FABIANAC, CONDITIONAL USE PERMIT, C-8328-** Application to: 1) construct and operate a boarding and training kennel for up to 150 dogs; 2) occupancy of an Agricultural Caretaker's unit; and 3) construction of a new single family dwelling, in an "A" (Agricultural) District, located at 10671 Crow Canyon Road, southwest side, approximately 1.28 miles north of Norris Canyon Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 0085-1991-006-00.
2. **RAYMOND CHOY, CONDITIONAL USE PERMIT, C-8444** – Application to allow continued operation of an existing wireless telecommunications facility, in a C-N (Neighborhood Business) District, located at 22253 Redwood Road, west side, corner north of Grove Way, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 415-0100-054-00.
3. **KERRIE RICE, CONDITIONAL USE PERMIT, C-8464** – Application to allow continued operation of a pre-school and after school care facility for a maximum of 125 children, in an R-1 (Single Family Residence) District, located at 22052 Woodroe Avenue, east side, approximately 850 feet north of Sparks Avenue, unincorporated Fairview area of Alameda County, designated Assessor's Parcel Number: 417-0110-063-00.
4. **SON X. HOANG, CONDITIONAL USE PERMIT, C-8469** – Application to allow the operation of a an alcohol outlet (Tony and Ted's Liquor) in conjunction with a convenience store, in a CVCBD – Sub-area 3 (Castro Valley Central Business, Sub-area 3) District, located at 2688 Castro Valley Boulevard, north side corner of Park Way, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084A-0181-057-03.
5. **ADAM ANDERSON, VARIANCE, V-11976** – Application to allow construction of an attached addition, thereby reducing the required side yard from eight to three feet, in an R-1-CSU-RV, (Single Family Residence, Secondary Unit, Recreational Vehicle) District, located at 4409 Sargent Avenue, south side, approximately 160 feet west of Alana Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084C-

0695-007-02.

6. **TED POLYZOS, VARIANCE, V-11979** – Application to allow conversion of a detached accessory structure (garage) to be located in the first half of the lot, in an R-1-CSU-RV, (Single Family Residence, Secondary Unit, Recreational Vehicle) District, located at 18426 Pepper Street, east side, approximately 225 feet north of Seven Hills Road, unincorporated Castro Valley area, designated Assessor's Parcel Number: 084B-0840-010-01

REGULAR MEETING: 6:00 p.m.

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

MEMBERS EXCUSED:

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

There were approximately 26 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 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. **FRANCISCO PENA, CONDITIONAL USE PERMIT, C-8389** – Application to allow the operation of a temporary outdoor business (Catering Truck) in a TC (Transit Corridor) District, located at 16211 East 14th Street, southwest end of 162nd Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080C-0479-003-00. (To be continued without discussion to March 22, 2006).
2. **TRINH HOANG, CONDITIONAL USE PERMIT, C-8443** – Application to allow continued operation of an auto service facility for minor auto repair in a C-N (Neighborhood Commercial) District, located at 20009 Meekland Avenue, west side, corner southwest of Blossom Way, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 429-0032-001-04. (To be continued without discussion to March 8, 2006).

A speaker card was submitted from Garvin White. Mr. White was no longer present when the Consent Calendar was reviewed. The Chair read the card into the record. As the owner of the adjacent property,

he objects to the Conditional Use Application because of the piles of materials stored on the property. He also believes there is a potential fire and health hazard to children in the neighborhood who climb the walls of the property.

Member Palmeri motioned to accept the Consent Calendar as submitted. Member Friedman seconded the motion. Motion carried 4/0.

REGULAR CALENDAR

1. **ERIC AND LORI FABIANAC, CONDITIONAL USE PERMIT, C-8328-**
Application to: 1) construct and operate a boarding and training kennel for up to 150 dogs; 2) occupancy of an Agricultural Caretaker's unit; and 3) construction of a new single family dwelling, in an "A" (Agricultural) District, located at 10671 Crow Canyon Road, southwest side, approximately 1.28 miles north of Norris Canyon Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 0085-1991-006-00.

Staff recommended that the Board adopt the Mitigated Negative Declaration and approve the project. Subject to "Exhibit A" and conditions set forth in the Initial Study, Mitigation Measures. The Board had the following questions:

- Did noticing of the application include notification of the Mitigated Negative Declaration
- Conditional Use Permit, C-6817 was for 10 dogs. How did the number of animals on the property increase to the current total of 65
- Is there a limitation on the size of a secondary agricultural caretakers unit in relation to the primary unit
- Was there a historical study/evaluation of the barn in addition to the criteria for the California Register of Historic Resources
- Over what time period was the noise study conducted
- What unit of measurement was used for the sound study, ie. number of dogs, period of time measured
- What is the capacity of the neighboring kennel business
- How many cars could potentially be waiting to turn left off of Crow Canyon Road to access the facility
- How many vehicles could be waiting behind vehicles that are in cue to turn
- What is the present Width Line of Crow Canyon Road
- What is the proposed Future Width Line for Crow Canyon Road
- Will the applicant be required to dedicate frontage to the Public Right of Way

Staff confirmed that public noticing did include information regarding the Mitigated Negative Declaration. There is not an issue in this case since the applicant proposes to convert the 1,500 square foot single family residence into the caretakers unit. The new home would be 5,000 square foot. Agricultural Zoning District guidelines state that: One single family dwelling is allowed. A secondary unit is required to be on the same building envelope as the primary unit. On parcels less than 100 acres, the secondary unit can be no larger than 2,000 square feet and subject to Site Development Review. The barn does not meet the criteria of California Historic Registry as it is not associated with events or lives important to the history of the region. The structure is not architecturally distinctive and does not retain most of the original materials. The original clap board on two sides of the barn have been replaced with plywood. The history of the barn was also reviewed by the Alameda County Parks, Recreation and Historical Commission. The Commission agreed with the conclusions of the architectural historian.

The Conditional Use Application for the neighboring kennel is currently under review. Staff was unsure of the number of animals but noted the facility bordered Club K-9 to the east. The current road width is 50 feet. The proposed Future Width Line is 100 feet. Currently the pavement area in front of the property is roughly 30 feet wide and is approximately 15 feet from the Public Right of Way. Member Spalding said she was concerned that the applicant would potentially have to give up 25 feet of frontage, and that there was an inconsistency as to what the site plan indicated and proposed conditions of approval. Staff responded that per, Condition #6 the applicant would be responsible for making any road improvements, right of way dedications, and necessary utility relocations at their own expense. Public testimony was opened.

The applicant, Mr. Eric Fabianac gave a history of the facility. The property was purchased in the late 80's. He left the area in the early 90's and moved to Utah then Europe. At that time the property was rented to Mr. Rick Sanders. Mr. Sanders applied, and was granted a license for 10 dogs. When Mr. Fabianac returned, the volume of dogs had increased to 50. He was assured by Mr. Sanders the facility was licensed for that number. In late 2003, the agreement with Mr. Sanders was terminated. At that time Mr. Fabianac wanted to make improvements on the property and went to Planning to determine the necessary requirements. Staff recommended, Mr. Fabianac apply for a permit that encompassed the entire scope of project.

Thus far the planning process has been arduous. Currently he and his wife are the owner /caretakers of the facility. Fourteen people are employed at Club K-9 and currently there is capacity for 65 dogs. They would also like to add an on site caretaker to their staff. The sound study measured a multitude of dogs over a 51 hour period. Measurements were taken from the Club K-9 site and 30 feet from Crow Canyon Road. The sound study concluded that road traffic was a more significant source of noise than barking dogs. The Traffic Study observed two drivers approaching from westbound Crow Canyon Road waiting to turn left. During that specific observation, five vehicles were in queue but only two were entering the into the Club K-9 driveway. Subsequent observations during a four hour period observed 17 other vehicles turning left that did not cause a westbound queue. Overall 1,946 cars traveled on Crow Canyon Road in a one hour period from 7:15 a.m. to 8:15 a.m. Mr. Fabianac said the backup on Crow Canyon Road is caused because the road is not wide enough for cars to pass. Not as a result of people coming to his business. He has been working with Bob Preston in the Traffic Division on the project. The barn had an architectural assessment and review from a historic perspective. The assessment determined that the barn would not yield any important historical information nor did it retain integrity of design, materials or workman ship. One side of the foundation remains. The barn is now held up with structural aids that include wooden two by fours. It will be demolished as part of the expansion project.

Board Member Spalding asked staff if conditions may need modification/augmentation when capacity increases from 65 to 150 dogs. She also posed the question to Mr. Fabianac. Staff responded that Conditions are written for up to the 150 dog capacity. Within the Terms and Conditions each County

Agency will specify what is required of the applicant. Member Spalding said her concern was that the Board did not currently have enough specific information before them to come to a decision. For example, if a turn lane were added to Crow Canyon Road would a CEQA review be required. The Chair said he visited the site and noted that a left turn from the Contra Costa direction was difficult. Mr. Fabianac said he was in agreement with the Terms and Conditions in the staff report and was aware he would be responsible for road improvements etc. Public testimony was opened.

Michelle Kehl said her dog loves Club K-9. She asked that the Board grant approval of the application, even if for a short period of time. Most other kennels, even when boarding at a veterinarian's office only let the dogs out for 15 minutes a day. The dogs at Club K-9 are very happy because they are allowed run and play. The owners take pride in caring for and spoiling the animals. The new facility will include heated floors for indoor use on rainy days. Not everyone is willing to spending money and time to do so maintain a high caliber facility.

Lori Vrabel told the Board that she loves dogs and has also owned race horses. From an objective standpoint she said Club K-9 is a top shelf business. Through her work as a pharmacist she has learned to recognize that the staff at Club K-9 pays attention to detail and knows how to take care of the clients. The kennel is needed and deserves to be in the area. Many properties on Crow Canyon Road are in disrepair whereas Club K-9 is well maintained. She would like to see approval of the application granted.

Cecelia Fusich, told the Board the facility was run well. Club K-9 is a benefit to the community not only because they offer a diversity of staff but also make an effort to attract a diverse customer base. Some of their clients are single mothers, in need of dog care who receive a reduced rate. She hoped the Board would approve the application.

The applicant, Mrs. Lori Fabianac read a list of some veterinary businesses that use the facility: Arroyo Veterinary in San Leandro, Bishop Ranch and Market Place Veterinary in San Ramon; All Creatures Great & Small and Parkway Veterinary in Dublin; East Bay SPCA; Saxton Veterinary in Alamo; ABCD and Oaktree Veterinary in Danville; Happy Vet and Tassajara Clinic in Black Hawk; Encina Veterinary in Walnut Creek and Martinez Animal Hospital. She said the list establishes that there is a need for Club K-9.

Member Spalding responded that there was no doubt a need existed for doggie day care. However the issues to be considered are land use issues. She asked Mrs. Fabianac if she was understood that mitigation measures such as road widening, lighting etc. would have to be resolved. CEQA review may be required which could have an impact on her decision. Mrs. Fabianac understood that the Board decision would be based on land use. She was aware of the proposed Conditions of Approval and was open to complying with staff's requests in regard to all of them.

Neil Campbell submitted a speaker card but was not present to speak.

Bill Adams, a frequent boarder, testified that Club K-9 did a great job and raised the standards for all kennel facilities. Currently there is a waiting list. The Fabianac's have captured lightning in a bottle. Club K-9 is a business that the Castro Valley and San Ramon area can be proud of. He would hate to see the business relocated and hoped the Board would approve the application.

Mr. Scott Cook takes his puppy to Club K-9. Most of the cars that enter bring more than one dog. Anything, including a turn lane that might slow traffic on Crow Canyon Road down would be an improvement. Over the past 25 years he has witnessed some bad accidents. He hopes the application process will be expedited.

Kathy Mc Cann said the Fabianac kennel was the best. Other kennels only have a four by seven foot

space for animals to exercise. She feels that the kennel is a good use for the parcel. The area is zoned for cows and horses. On the weekends Crow Canyon Road is busy with people attending horse shows. The volume of people going to Club K-9 is not nearly as heavy. She has two dogs, Bonnie and Clyde and they receive the same treatment at Club K-9 as they do at home. One of her dogs has diabetes. The staff delivers injections and no other place will do that.

Mike Baker a client who lives in Dublin was in agreement with the former speakers. Club K-9 delivered outstanding service. He has boarded his dog at many kennels over the past 20 years and this facility is the best. He takes his dogs there to play with the other dogs. If the application is granted, additional staff would be needed which would create more jobs. He asked the Board to approve the application.

Dawana Cook is a resident of San Ramon. The service provided is beyond reproach. She shopped around for doggie day care. She was looking for a quality facility and chose Club K-9 over all of the others. The condition of the facility and the way they treat their customers goes above and beyond.

Nathalie Stone at 18810 Van Buren Place has a three year old Shepard that she adopted from rescue. He does not like to be left alone. When they first left him at Club K-9 he was nervous. Now he trots away as soon as he arrives. The hours are convenient. On four occasions there were no vacancies. If the family has plans to go out of town and there no vacancies they will cancel their trip. She hopes the Board will approve the application. Without Club K-9 the dogs that attend would become home bodies.

Sandra Heuer is a long time Castro Valley resident. She takes pride in the canyon. Each day she gets frustrated with the commute traffic. On occasion a vehicle that is turning does slow traffic but that is a good thing. Many drivers don't respect the road. When she encounters traffic on her street she understands that other people live there too. Californians always say not in my back yard. She believes the kennel business is the best use for the location because you can't put this type of business in the city. When the family travels for their children's soccer matches they leave their dog there. She would like Club K-9 to remain a member of the community.

Pat Arney, a neighbor who lives at 10730 Crow Canyon Road says from her corner home she hears all of the activity. She can hear dogs barking all day and night. She realizes that some of the barking is coming from another dog kennel but 65 dogs are too many. There are three families living near Club K-9 that are affected by the business. There should be peace and quiet in a County area. Ms. Arney visited the property to talk to Mr. Fabianac. She saw 15 dogs in a pen, and they were all barking. Sixty five dogs are kept in the old barn. She is a dog owner and would never do that. Two homes are located on the site. One of the homes was rented out however she was not sure if that was still the case. Cars that are turning into the Fabianac property have to slow down. This also slows traffic down. She has owned the saddle shop across the street for 35 years. Current road conditions are a big thing but the barking has even more of an impact. During the summer she cannot open her front windows to let cool air in. Because of the noise she can only open the back. Member Friedman asked Ms. Arney:

- At what time of day was the noise most pronounced
- Has there been a noticeable difference as the growth of the facility occurred

Ms Arney said the barking varies. She then gave the Board a history of the facility. She was opposed to the permit that Mr. Sanders had been granted for 10 dogs. One of the conditions was that septic tanks be installed on the property. This was never done. She asked the Board what kind of follow up would ensure that things were done correctly. She feared that once the permit was granted there was no mechanism to ensure compliance. Mr. Fabinac says he has 30 million dollars. Money should not be an issue.

Jim Arney submitted a speaker card but did not comment.

The Chair read the speaker card of Peggy Pearson into the record. She was in support of the application.

Migs Stallworth was in agreement with all of the positive things that had been said thus far. He comes from Lafayette to bring his dog to the kennel. Other kennels offer small cages. You have to pay extra to have your dog exercised. Club K-9 incorporates activity as part of their program. He believes that the expansion plan is good and highly recommends the Board approve the application.

The Chair read the comments of Ms. Delores Behul into the record. She has lived all over the U.S and Europe. She believes the kennel is unique and wonderful. Hopes the vibrant business will be allowed to expand.

Crystal Jacobsen, the office manager for Club K-9 said the facility was unique for this area. She has to turn people down. There is a year round waiting list but during the Holiday Season there are typically 85 people on the list. Daily pick up times are staggered. No pick-ups occur before 10:00 a.m. Traffic on Crow Canyon Road is the slowest on Sunday which is the busiest pick-up day. Staff uses the morning hours to bath and feed the dogs, etc. The new facility will have sound proofing and insulation. The current barn does not. Board Questions to Ms. Jacobsen were the following:

- What are the hours for drop off
- What are the hours for play
- What is the percentage breakdown of dogs at the facility, daily, weekly vs. vacation and/or holiday season

Drop offs begin between 7:00 a.m. and 8:00 a.m. Pick-ups are allowed after 10:00 a.m. up until 8:00 p.m. The dogs are taken out to relieve themselves at 7:00 a.m. They come in to eat and then go back out to play. Bedtime is at 8:00 p.m. There are approximately 15 daily boarders. Ten dogs come for training. The balance of 50 dogs stay for a number of weeks. A few of that number stay overnight.

Brian Pesicka at 10411 Crow Canyon Road lives in the home closest to Club K-9. Mr. Pesicka spoke with the Fabianac's about the operation prior to purchasing his property and has never had any issues. He believed the rural location is ideal for a kennel and hoped the Board could approve the application. Mr. Pesicka is self employed and works from his home office. He goes in and out of his home 10 to 12 times a day, and does not believe the traffic issue is as a result of the people going to Club K-9. During peak traffic times he has a difficult time getting out of his driveway. He sleeps with his windows open at night does not have an issue with barking. Member Spalding asked which side of Crow Canyon Road his home was located on. Mr. Pesicka confirmed the west side. The Fabianac property is a total of 134 acres. The current home is located in the front third of the property and he has no issue with the proposed new home.

Pauline Darwin was called to speak but was no longer present.

Stan Laster said he was a good friend of the Fabianac's. He has known them since they purchased the property. He brings his dogs in from San Ramon and sometimes he is not able to get a spot. The old barn needs to be torn down. The proposed building and sound wall will be an improvement for the dogs and the neighbors. Mr. Laster recommended that the Board check the other dog kennel in the area that is owned by Mr. Sanders. Most of the barking noise heard could be coming from there. They train dogs at the facility, during which time they bark more. Mr. Laster closed and said that Mr. Fabianac used to run Phillips Conoco Corporation. He is well aware of the risks, and can implement the Conditions of

Approval.

Janet Barrett said the Fabianac's are making an investment in the community. They are willing to invest and should be given a chance.

Ms. Emily Lamm has been a dog owner for 2 ½ years. She initially took her dog there for training and now brings her dog a few times a week. She is a conscientious pet owner and put effort into finding a kennel. The facility is impeccable. She believes the applicants will take their time to do a professional job.

Karl Lamb said an indicator that Club K-9 is top quality is the fact that there is a long waiting list. A letter was recently published in the Daily Review Newspaper about traffic. The California Highway Patrol said excessive speeding and the sharp turn off of the Castro Valley side of Crow Canyon Road is the problem. All cars, including those coming from a use like a home or apartment building would cause problems. In regard to barking, he leaves his dog at 7:00 a.m. and returns at 6:00 p.m. In comparison to the road noise the barking is not as loud. When Club K-9 staff witnesses dog barking, they address it right away.

The applicant, Mr. Eric Fabianac referred to a diagram explaining that his property was landlocked by five neighbors. Mr. Brian Pesicka, at 10411 Crow Canyon Road was the closest to the facility at 800 feet. Ms. Arney lives, 1500 feet from the facility. Mr. Fabianac said had lived in Europe and other parts of the world. He chose to relocate in Castro Valley for the rest of his life and wants to be a good neighbor. He understands that noise is a factor. The traffic creates more noise than the dogs. They are put to bed at night which eliminates 24 hour barking. Empirical evidence shows that traffic is the problem. Crow Canyon is a two lane winding road with cars traveling at a high speed. Two thousand cars pass per hour and only three go to Club K-9. The proportion of traffic is miniscule. Mr. Fabianac confirmed again that he was in agreement with the proposed Conditions of Approval. He will continue to work with Traffic to determine acceptable criteria for paving the driveway area and road etc. Member Spalding asked how many residential structures existed on the property. Mr. Fabianac confirmed there were two residential structures however one is used as an office. The structure used as the office will continue to be used for the same purpose. Mr. Fabianac closed and said he could not think of a better use of 20 acres on Crow Canyon Road. He runs a good business with great people. Club K-9 wants to be a good neighbor as well as good for the community. Public testimony was closed.

Member Palmeri said in reference to the Initial Study his questions and reservations had been resolved with public testimony. He believed the applicant could make all of the findings and was in favor of approval with two caveats. First, there will be no more than two residential units allowed on the property. Second, the hours of operation shall be from 7:00 a.m. to 8:00 p.m. The permit shall expire in three years, and shall return to the Board in one year for a review of compliance with mitigation issues. Member Palmeri asked staff and County Counsel if the applicant could be limited to the current number of animals until construction of the new kennel. Staff responded that the applicant must also complete the Site Development Review process. The Board could specify that the number of dogs may not increase until the kennel facility was complete. Mr. Fabianac interjected and told the Board it was his plan to keep to the number of dogs at 65 for at least a period of one year.

Member Spalding believed that the Mitigated Negative Declaration could not be approved at the current juncture. The noise study was conducted with the current number of animals, 65. There is no way to determine what the impact would be once the number animals increase. She also thought additional noise mitigation measures were appropriate with the current number of animals. Regarding the application, Pre Hearing Recommendation #21 should be stricken. The Alameda County Traffic Division should be more specific and state what they want the applicant to comply with, especially since it could mean road

widening or an increase in the number of lanes. Member Spalding was in agreement with Member Palmeri that the number of residential units should not exceed two.

Member Friedman said it was apparent that there was a public need for the facility. He owns a German Shepard and knows there are only a few places to take a dog. Club K-9 is a well run operation, however he believed there were current problems with noise and traffic. He would like to see the facility expand but would like to see the increase in animals phased in as the new infrastructure is ready. Perhaps the applicant can return in one year after the infrastructure is put in place. At that time the Board could make a decision regarding the increase in the number of animals.

Member Palmeri said the challenge with that process is the applicant could spend money on infrastructure and possibly not receive Board approval. The Board may also consist of different members in the future who may not share the same perspective. In response to local residents concerns, a time limit can be set as to when the proposed sound wall shall be installed. The site development review can state that the building currently being used as an office shall remain an office. Member Spalding interjected and said that the sight barrier referred to in Pre Hearing Recommendation #12 will not be functional unless it is contiguous with the new building. Vegetation would also have to be considered. Mr. Fabianac confirmed that the wall and vegetation were all part of the new expansion. He did not believe it made sense to mitigate the current barn structure when it already slated for removal. Mr. Dick Flynn, counsel for Mr. Fabianac added that the current sounds emanate from a structure (barn) that is not designed to reduce sound. The closest neighbor to the site did not have any noise issues.

The Chair said his concern was ingress and egress. The driveway is slanted to the west. A blind spot exists when approaching from the Tassajara Road side. Pre Hearing Recommendation #21 will ensure that Traffic issues will be addressed. Noise does not appear to be as great of a factor and will be addressed. Overall the facility is run well.

Member Palmeri motioned to adopt the staff recommendation of adoption of the Mitigated Negative Declaration and approval of the the Conditional Use Permit, subject to Tentative Findings of Approval with the following modifications: The number of residential structures shall be limited to a maximum of two. The office structure shall be modified so as not to be used as a residence. Condition #13 shall be corrected to refer to Condition #12. The Conditional Use Permit shall allow 65 dogs for a period of one year. The facility may not expand to 150 dogs until final building permit approval is obtained. Condition #22 shall be expanded to include: The applicant will also return to the West County Board of Zoning Adjustments one year after project approval date at which time the Conditional Use Permit, C-8328 is subject to modification, changes up to and including revocation. Condition #23 shall be modified to state that expiration shall occur for three years after issuance of a final building permit by the Alameda County Building Department. Member Friedman seconded the motion. Member Spalding was not in agreement with the approval of the Mitigated Negative Declaration or the application.

Specific information had not been determined as to the possible requirement of adding lanes and/or widening of Crow Canyon Road. If either was deemed necessary this would require a CEQA Study. Motion carried 3/1.

2. **ADAM ANDERSON, VARIANCE, V-11976** – Application to allow construction of an attached addition, thereby reducing the required side yard from eight to three feet, in an R-1-CSU-RV, (Single Family Residence, Secondary Unit, Recreational Vehicle) District, located at 4409 Sargent Avenue, south side, approximately 160 feet west of Alana Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084C-

0695-007-02.

Staff recommended denial of the application. They did not believe the applicant could make the finding that special circumstances existed that deprive the property of privileges enjoyed by other properties in the vicinity. The Castro Valley Municipal Advisor Board recommended approval of the application. The Board asked what has changed since Variance, V-7826 was approved, authorizing the construction of the carport, thereby, reducing the side yard. Staff responded that the current proposal is to expand the footprint of where the carport is located with an addition that includes a two car garage. The garage would be located three feet from the property line however the habitable portion of the addition would jog in and meet the eight foot side yard requirement. Public testimony was opened.

The applicant, Mr. Anderson presented photographs. He thanked Planning staff for doing a thorough job, although he differs with their opinion. He purchased the home three years ago. The current garage had been converted into living space with benefit of permit in 1959 and a carport was added for parking. There is one other home in the area without a garage. Several homes have three foot setbacks. A two car garage would be in keeping with the neighborhood. His neighbors on Gregory Street, Edwards Lane and Sargent Avenue are in support of the addition because it would remove the carport which is an eyesore. The neighbors on Gregory Street are also in favor of the project because it would reduce runoff. Their property is six feet lower and when it rains all of the property owners have to use sump pumps. If the garage were relocated in the rear, runoff would increase. His wife, a biologist believes saving the two large redwood and oak trees would protect the many species of wildlife that inhabit the trees. The project will also meet the Garage Conversion Ordinance. The Board asked the following questions:

- Are there any other features unique to the property
- Are there any other locations on the property that would accommodate the addition
- What are the trunk diameters of the three large trees
- Is the current garage large enough to accommodate a vehicle

Mr. Anderson said the lot slopes from front to back approximately 12 feet. He did not know exact tree trunk diameters however the photos indicate heights at approximately 70 feet. The current garage would not be large enough to accommodate one car. Public testimony was closed.

The Chair believed that special circumstances existed because the garage conversion precipitated the construction of the carport three feet from the property line. The owner now simply wants to convert the space back to non habitable space. Member Spalding agreed that special circumstances existed because the lot was not flat and did have a slope. In addition it would be detrimental to cut down the established trees. Member Palmeri did not share the opinion that only an eight inch setback difference existed between what was proposed and what existed. Many different drainage options were available to the applicant to divert water runoff as well.

Member Spalding motioned to approve the application based on the fact the lot did slope. Alameda County did find that special circumstance did exist as a result of conditions created by the previously granted variance. Member Friedman seconded the motion with the following modification. Tentative Finding #2 should state no due to the slope of the lot and established redwood trees. Tentative Finding #3 shall state that drainage would be improved. Pre Hearing Recommendation #1 through #3 shall become Conditions of Approval. Member Palmeri was not in favor of approval of the application. Motion carried 3/1.

APPROVAL OF MINUTES: Member Palmeri motioned to approve the Minutes of September 14, 2005. Member Spalding seconded the motion. Motion carried 3/0. Member Friedman abstained.

Member Palmeri motioned to approve the Minutes of December 7, 2005. Member Friedman seconded the motion. Motion carried 3/0. Member Spalding abstained.

Member Palmeri motioned to approve the Minutes of December 14, 2005. Member Friedman seconded the motion. Motion carried 4/0.

STAFF COMMENTS & CORRESPONDENCE: Staff announced that the new Board Member should be sworn in at the beginning of February.

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

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS: Due to lack of afternoon availability for the January 25th Meeting Board Members agreed with staff that the meeting time be set for 6:00 p.m.

ADJOURNMENT:

There being no further business, the hearing adjourned at 9:48 p.m.

CHRIS BAZAR - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS