

MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
JANUARY 25, 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.

REGULAR MEETING: 6:00 p.m.

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

MEMBERS EXCUSED: None.

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

There were approximately 18 people in the audience.

CALL TO ORDER:

The meeting was called to order by the Chair at 6:15 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. **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. (To be continued without discussion to March 8, 2006).
2. **TAM, TAM, YU AND KUAN, VARIANCE, V-11952 and PARCEL MAP, PM-8738** – Application to allow a 18 feet wide driveway where 20 feet is the minimum and a six feet side yard setback where 10 feet is the minimum with subdivision of the site into three lots, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 18332 Carlton Avenue, east side, approximately 200 feet north of Dominic Drive, unincorporated Castro Valley area of Alameda County, designated Assessor’s Parcel Number: 084B-0472-039-00. (Continued from September 28, October 12 and November 9 and December 7, 2005; to be continued without discussion to February 8, 2006).
3. **MINXI LIU, VARIANCE, V-11975 & SITE DEVELOPMENT REVIEW, S-**

2027 – Application to retain an existing single family dwelling, construct a two-unit addition to an existing duplex and construct a new single family dwelling with a nine foot setback from the driveway where 10 feet is required in an R-S-D-20 (Suburban Residence, 2,000 Minimum Building Site Area per Dwelling Unit) District, located at 261 Laurel Avenue, southeast side, approximately 250 feet southwest of Princeton Street, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 431-0016-014-00. (Continued from December 14, 2005)

WITHDRAWN

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

REGULAR CALENDAR

1. **THOMAS VAN VOORHIS, VARIANCE, V-11963** – Application to approve as two building sites, lots that are reduced in area from 100 acres to five acres and 73.23 acres; and one parcel without frontage on an approved county road in an "A" (Agricultural) District, located at 22000 Eden Canyon Road, southeast side, approximately one mile northeast of Hollis Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 085A-2201-012-00. (Continued from December 14, 2005).

The Chair announced his intent to recuse himself unless the decision resulted in a tie. He did not receive his staff report in sufficient time to review the materials. Member Spalding shared the Chair's position. Member Friedman added that he had received two different versions of the staff report and was not clear as to which was correct. The Chair recommended that if acceptable to the applicant, public testimony can be taken and matter be continued to the February 8, 2006 Meeting. Staff Member Darryl Gray apologized for the snafu and delay in distribution. Public testimony was opened.

Mr. Van Voorhis said he wanted the Board to review the application thoroughly. A postponement was acceptable. He would use the time to clarify issues with Mr. Gray and re-submit updated documentation. Public testimony was closed.

Member Palmeri motioned to continue the application to February 8, 2006. Member Friedman seconded the motion. Motion carried 4/0.

2. **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.

The staff recommendation was denial. The Castro Valley Municipal Advisory Committee recommended approval of the application. CVMAC said although they did not believe the applicant could make the findings, from an aesthetical perspective the garage did look better in the proposed location. Public testimony was opened.

Mr. Ted Polyzos was present. His son, Mr. George Polyzos spoke on his behalf. The home is set toward the rear of the lot. The rear yard is only 20 feet and as a result the patio is located on the left side of the house. A cluster of mature trees are behind the patio area. The alternative of attaching the garage to the house directly would eliminate windows, reducing light that now circulates into the kitchen. The other option of moving the proposed garage further to the rear of the lot would virtually eliminate the rear yard, and require the removal of trees. It would also visually detract from the home. Mr. George Polyzos presented a map to give the Board additional perspective. Member Spalding recused herself from participating in a decision regarding the application. She believed there was an issue as to how the County Zoning Ordinance might be interpreted. Sufficient clarification was not provided as to setback measurement points from the street lot line.

The Board had the following questions:

- How deep is the parcel
- Was the parcel subdivided at the time the original subdivision was created
- What is the placement of the parcel in relation to the parcels behind it
- Does the existing driveway service any of the parcels located behind it
- Are there recorded easements
- Can the garage be attached to the patio
- Was the current carport built with benefit of a permit
- Are the trees on the property subject to the County Tree Ordinance

Mr. Bob Conklin a resident from 18425 Pepper Street spoke to the Board on behalf of four other families from Pepper Street. He believed special circumstances did exist. Five other properties on Pepper Street have detached garages. Only one other home had an attached garage. There is neighborhood support for the variance application because the garage would provide, covered off-street parking. The street is only 25 feet wide and parking is limited. Additional parked cars prevent emergency vehicles and garbage trucks from accessing the street. If you do find parking on the street, vehicles are exposed to sap from the Cedar trees. Cedar tree sap can only be removed with a razor or acetone. The only other alternative available to people are the tent structures which do not look good or last very long. Mr. Conklin was in agreement with the staff report. The garage would not be detrimental because it would be set back from the right of way and meet building code standards.

Staff responded that Pepper Street is private. Easements are enforced by owners of the private road. A driveway easement provides access to the two parcels located behind lot. Staff could not locate a building permit for the carport. The lot has a depth of is 118 feet. A variance could be avoided by setting the garage 59 feet back from the property line, attaching it to the home or to the patio. The garage could also be connected to the patio with a trellis which would meet the definition of an attached accessory structure. Trees on the property are not subject the County Tree Ordinance. Mr. Polyzos confirmed that the lot and the two lots behind them were created at the time the original parcel was subdivided. Mr. Polyzos referred to an elevation map indicating the actual slope. The patio is actually raised to meet the house to compensate. If the garage were placed there the same issues would occur. Public testimony was closed.

Member Palmeri motioned to approve the application based on documentary evidence and testimony presented. Special circumstances do exist based on the significant change in the topography within the proximity of where a garage would normally be situated. Although not governed by the County Tree Ordinance, the types of trees on the property are consistent with the character of those on the entire street. Code Enforcement may follow up on the illegal status of the existing carport. Tentative Finding #1 shall be modified to reflect that special circumstances are present. Tentative Finding #2 shall be modified to

reflect that the granting of the application will not constitute a special privilege. Tentative Finding #3 shall remain unchanged. Pre Hearing Recommendation B shall become Conditions imposed for the variance. Member Friedman seconded the motion. Motion carried 3/0. Member Spalding abstained.

APPROVAL OF MINUTES: Member Palmeri motioned to continue the approval of the January 11, 2006 Minutes to the February 8, 2006 Meeting. Member Friedman seconded the motion. Motion carried 4/0.

STAFF COMMENTS & CORRESPONDENCE: As to Zoning Ordinance, 17.52.270 Accessory Buildings-Where Not Permitted Member Spalding asked staff their interpretation. Member Palmeri and the Chair said their personal interpretation was that an accessory structure must be placed at or behind a 75 foot distance from the street lot line. Staff responded that the front of an accessory structure would have to be placed 75 feet from any street lot line. Typically, sheds, chicken coops etc. are structures that are not placed in front of a residence. The 75 foot setback requirement resolves that issue in most cases. Member Spalding thought it might be helpful to also get the Planning Commission's interpretation of the Ordinance.

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

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS: There were no announcements.

ADJOURNMENT:

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

CHRIS BAZAR - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS