

MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
OCTOBER 25, 2006
APPROVED, NOVEMBER 9, 2007

The meeting was held at the hour of 1:30p.m. in the Alameda County Building, 224 West Winton Avenue, Hayward, California.

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Chair; Ron Palmeri; Vice Chair, Frank Peixoto; Members Jewell Spalding; and Dawn Clark Montenegro.

MEMBERS EXCUSED: Lester Friedman.

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

There were approximately 5 people in the audience.

CALL TO ORDER:

The meeting was called to order by the Chair at 1:30 p.m.

ANNOUNCEMENTS BY THE CHAIR: The Chair announced that Member Spalding arrived at 1:40 p.m.

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. **VERBINA and JAGMOHAN SETHI, VARIANCE, V-11970** – Application to subdivide a parcel so as to provide a one foot side yard where five feet is required in an R-1-CSU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle) District, located at 3213 Keith Avenue, south side, approximately 524 feet west of Lake Chabot Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084B-0510-011-01. (Continued from July 12 and September 27, 2006; to be continued without discussion to February 14, 2007).

2. **ACKLAND INTERNATIONAL, VARIANCE, V-12003 and TENTATIVE PARCEL MAP, PM-8981** – Application to subdivide one site into three lots with a 12 foot driveway where 20 feet is required in an R-S-D-35 (Suburban Residence, 3,500 square foot Minimum Building Site Area) District, located at 134 Grove Way, northwest side, approximately 150 feet southeast of Meekland Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 429-0032-030-00. (To be continued without discussion to December 13, 2006).

3. **ALEXANDRU TET, VARIANCE, V-12016** – Application to allow conversion of an accessory structure into a secondary unit with A) a one foot rear yard setback where 20 feet is required; B) a two foot, eight inch side yard where six feet is required; and C) eight feet between structures where 10 feet is required in an R-1-CSU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle) District, located at 18787 Carlton Avenue, southwest side, approximately 255 feet southeast of Sydney Way, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084B-0420-004-03. (Continued from September 13, 2006; to be continued without discussion to December 13, 2006).

Member Peixoto moved to accept the Consent Calendar as submitted. Member Spalding seconded the motion. Motion carried 4/0. Member Friedman was excused.

REGULAR CALENDAR

1. **SEVENTH STEP FOUNDATION, INCORPORATED, CONDITIONAL USE PERMIT, C-8515** – Application to allow continued operation of a 24 bed Residential Care Facility and expansion from 24 beds to 34 beds, in the "R-S-SU" (Suburban Residence, Secondary Unit) District, located at 475 Medford Avenue, south side, approximately 100 feet east of the intersection with Haviland Avenue, unincorporated Cherryland area, Assessor's Parcel Numbers: 429-0019-002-00 and 429-0019-026-02.

Staff recommended approval of the application with a modification to the staff report. Pre- Hearing Recommendation #4 shall be omitted, as the applicant has submitted a list of Program Activities to Planning staff. Initial Board questions were as follows:

- What is the current width of the access driveway
- What is the actual number of calls the Sheriff receives monthly regarding activities at the property
- How was it determined that the number of calls is below average for this type of facility
- How many residential care facilities are in the immediate area
- How many parolees are in the immediate area
- Will the footprint of the facility be expanded
- Does Seventh Step operate more than one facility

Staff said the proposed driveway change in 1969 was to reduce the width from the required 20 feet to 16 feet in conjunction with a proposed increase of beds from 25 to 39. The project was never implemented. The driveway width is actually 12 feet. Staff did not have area statistics but acknowledged there is a women's community facility less than 500 feet away from Freedom House. Statistics for purposes of comparison regarding the number of facilities, parolees and compliant calls can be obtained from the Sheriff's Department. One call to Sheriff's Department per month was received in June, July and September. Five calls were received in August. The proposed expansion at Freedom House is limited to

the number of beds. Bunk beds will be employed but the actual footprint of the facility will remain the same. Member Spalding told staff that the statistical information was relevant to answer the question of possible over concentration of community facilities in the area. The Chair confirmed that up to date statistics would be necessary for the Board to come to a decision. He recalled from a community meeting held 8 years ago that Cherryland had a higher density of facilities as compared to the surrounding area. Public testimony was opened.

Mr. Glen Moss, President of the Seventh Step Board of Director's was present to address Board concerns. Mr. Ron Doyle, Operations Director of Seventh Step was also present. Mr. Doyle said on occasion the Sheriff's Department has been called by staff members to respond when someone at the facility gets rowdy. These complaints are internally generated. Seventh Step has a zero tolerance policy for drug use and violence. On a monthly basis 400 people get released to Alameda County as a whole. The program has been in operation for 34 years, and has a contract with the Department of Corrections. Of the 24 beds at Freedom House, approximately 85% are filled with men from the Hayward area. The other 15% are usually from Oakland. There is a screening process, and strict qualifications for someone to be eligible. Arsonist, sex offenders or persons convicted of and pandering are not accepted. Freedom House only accepts people that are ready to change their lives. Seventh Step only has one facility, and there is always a waiting list. Unfortunately there are only two other rehab centers for men in the East Bay, one in Fremont and one in Oakland. There is only one facility for women in Hayward. There are some unlicensed facilities that just house people and do not provide supervision. Many unlicensed facilities do not provide rehabilitation and as a result the reputation of legitimate community facilities are tarnished. Most of the additional beds will be added to the larger dorms #1 and #5. State Agencies would have to provide additional information as he can only speak to the facility he operates. Additional Board questions were as follows:

- What is the open door policy
- Are residents required to remain inside of the facility
- If residents are allowed to leave is there a curfew
- Are visitors allowed at the facility
- Are residents allowed to keep a vehicle on the property
- How many staff vehicles are parked on the property
- How many bathrooms are located at the facility
- Does the facility have fire sprinklers
- Why are shopping carts being stored on the property
- What is the success rate of the program
- What is the process if a resident is asked to leave the program

Mr. Doyle said the open door policy is that the public is allowed to attend any Alcoholics Anonymous or Narcotics Anonymous meeting at the facility. Attendees must be clean and sober. Intoxicated participants are not allowed. The facility itself is not a locked facility. Residents can come and go if they have been in the program for at least 30 days. There is an exception if a resident has a job. Residents that have not completed the 30 days must stay within the property line but can leave to see their parole officer, go to church or to a doctor's appointment. The gate is locked at 10:00 p.m. for safety to keep any possible crime out. Not to keep bad residents in. Mr. Doyle did not have statistics with him but his estimate was that approximately 200 men go through the program in a year. On average 40 people graduate before the end of six months. The graduation success rate is about 45%. The policies are tough, including the zero tolerance for alcohol. If there is one infraction a resident must leave the program. Once a resident is asked to leave their parole officer is contacted. Usually residents get transportation from a relative as most do not own vehicles. On rare occasions if assistance is needed to escort someone off of the property the sheriff is called to assist. This does not happen often. Residents benefit from

rehabilitation and usually leave the facility better than they were upon arrival. Once a resident is gone they are no longer the responsibility of Freedom House. Visitors must check-in with staff. If they have a bag, it is searched. Visiting is allowed in the TV room or kitchen and not allowed in the dormitory areas. There are 3 bathrooms which the State of California deems sufficient for the size of the facility. There are parking spaces on the side of the house and also parking on the street, totaling nine spaces. At any one time there are no more than 5 vehicles parked. For a vehicle to be allowed on the property it must be operable, licensed and insured. Most of the vehicles are owned by staff members. The facility does use two metal carts to move food from the rear to the front of the facility. However there should be no shopping carts stored on the property. Mr. Doyle said he would remind residents that carts should not be taken from local store or stored on the property. Most of the residents come to the facility with only the clothes on their backs. Freedom House provides socks and underwear. Parolees are given \$1,800 upon release but Freedom House does not take any of that money as it will be needed to help them get back on their feet. The State of California is considering housing inmates out of state, in private prisons. More rehab space is needed in California for people being released.

Mr. Glen Moss reiterated that if a resident is asked to leave, it is up to the Probation Officer to locate another facility. There is proof the program is working due to the lack of complaints from the community. Member Spalding referred to a letter from the Cherryland Association which was not in agreement with the proposed expansion. Mr. Moss said that until recently due to a communication error he had not talked with Kathy Gill from the Cherryland Association. The Association had asked Freedom House to participate in a community clean-up. As a result of the communication error they missed the event. Now that communication has been established the Cherryland Association has been invited to tour the facility. Ongoing community outreach will also take place. The building is not required to have sprinklers. The facility does have smoke alarms, and an inspection of the facility was conducted last week. Public testimony was closed.

Member Spalding thought the lack of data as to the concentration and type of facilities in the immediate area made it difficult to thoroughly review the application. She believed staff should review, and consider the information as well. Staff added that there have been no application submissions for community facilities in the area. However a CUP is not required for facilities of six persons or less.

The Chair said he lived approximately 600 feet from the facility. He acknowledged this was one of the better run facilities. However he would still need current data before coming to a decision since the proposal is to increase the number of beds. As of 8 years ago, there were 60 licensed facilities within a one square mile area. Additional information would be necessary to determine if an increase in the number of beds at Freedom House would have an impact. The community has voiced ongoing concern about the over concentration of community facilities, the possibility of related crime in the neighborhood, and the fact that some facilities that have been shut down for health and safety violations.

Member Peixoto said the need for the continued use had been established, perhaps a second facility should be considered. As to the existing facility he would be willing to approve the continued use at the current maximum of 24 beds. He did not think any health and safety violations were present under the current conditions. Mr. Doyle told the Board it would like to open another facility but that would take a few million dollars. The Chair recommended the application be postponed for a few weeks to obtain additional information. Member Spalding asked staff if the Board had the option to approve 24 beds at this time and return at a later time to consider expansion. Staff recommended the application be considered in its entirety.

Member Spalding motioned to continue the application to November 15, 2006 to allow staff to gather additional data from the State Department of Corrections and the Licensing Board. Member Peixoto seconded the motion. Motion carried 4/0. Member Friedman was excused.

2. **RICKY MALVEAUX, VARIANCE, V-12021** – Application to allow a 17 foot rear yard setback where 20 feet is required in an R-S-D-25 (Suburban Residence, 2,500 square feet per Dwelling Unit) District, located at 20633 Garden Avenue, west side, approximately 300 feet south east of Bartlett Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 432-0008-026-01.

Staff recommended denial of the application. Member Peixoto asked staff if the current zoning of R-S-D-25 prevented the applicant from using the large front yard as compensating open space. Staff confirmed that if the property had retained its former R-1 zoning, compensating open space would allow the addition without the need of a variance.

Staff Members Adrian Putra and Phil Sawrey-Kubicek were complemented on a job well done. The Chair stated for the record that the project staff report was thorough, and well written. The best report submitted this year. Public testimony was opened.

Mr. Italo Capestri the architect for the project acknowledged that the variance findings could not be made. Other design options were considered during the course of the project. One option considered was to move the entire structure. Based on cost, this was not viable. Another option was to place the addition onto the southern portion of the residence. This would cover a window and prevent light from entering the kitchen. If the addition were placed on the northern side, the proportions in keeping with the historic design are not balanced. The existing home was built in circa. 1900. It was probably one of the first homes in the area built prior to the creation of adjacent parcels, and the institution of Zoning. The home is well maintained and neighbors do not object to the project. Mr. Capestri presented photos to the Board and asked that they approval the project. He believed the proposed design is the best alternative to retain the Victorian Era feel of the residence.

The applicant, Mr. Rickey Malveaux told the Board that there is parking for seven cars on the property. A church is located next door. On week-ends members use the street parking. The proposed design retains the seven on-site parking spaces, which allows the church to continue to utilize valuable street parking. The home was purchased in immaculate condition. Mr. Malveaux strives to maintain the lawn and exterior lighting. However one thing he would like to change about the historic home is the lack space in the bathrooms. His Mother came to visit and observed that the small bathrooms provided just enough space to freshen up but not to bathe comfortably. He promised her he would expand. Mr. Malveaux said he works for a public agency and understands that there are rules and regulations but would like to keep the promise to his Mother. Mr. Malveaux closed and asked the Board to consider the testimony, and rule in favor of the variance. Public testimony was closed.

Member Pexioto asked staff why the parcel had been re-zoned from R-1 to R-S-D-25 in 1958 when the lot size did not qualify. Staff responded that in 1958, parcels on Garden Street and the surrounding area were not considered individually but assigned blanket, R-S-D-25 zoning.

Member Spalding motioned to approve the variance based on special circumstances. The lot and placement of the home were created prior to zoning. The lot is deeper than lots in the surrounding area. Granting the application will not grant special privilege, based on the historic nature of the home. Retention of on-site parking beneficially affects the use at the church, within close proximity. Preserving the historical nature of the site will not be detrimental to persons in the surrounding area. Member Clark seconded the motion. Motion to approve the application carried 4/0. Member Friedman was excused.

3. **JOE TEIXEIRA, VARIANCE, V-12023 and PARCEL MAP, PM-9237** – Application to subdivide one parcel into three lots and a variance to allow a four foot setback from a private street where 10 feet is required, in an R-1-CSU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle) District, located at 19448 Lake Chabot Boulevard, east side, approximately, 250 feet north of Barlow Drive, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084B-0529-038-04.

Staff requested a continuance to further review the application. They believe the need for a variance can be eliminated. No requests to speak on behalf of the item were submitted. Member Peixoto motioned to continue the item to November 15, 2006. Member Spalding seconded the motion. Motion carried 4/0. Member Friedman was excused.

APPROVAL OF MINUTES: Member Peixoto motioned to approve the Minutes of September 27, 2006. Member Clark seconded the motion. Motion carried 4/0. Member Friedman was excused.

Member Spalding motioned to approve the Minutes of October 11, 2006. Member Clark seconded the motion. Motion carried 3/0. Member Peixoto abstained. Member Friedman was excused.

STAFF COMMENTS & CORRESPONDENCE: An Ethics training session will be held on December 11, 2006 at ABAG. The County will pay for the training. Board Members that need to attend should confirm attendance with staff.

Staff reported that comments regarding the possible raising of fence heights to 7 feet in side and rear yards within "A" and "R" Zoning Districts will be reviewed at the Board of Supervisor's in January. Currently front yard, fence heights are not being considered. Member Spalding asked staff:

- What is the appeal rate of variance applications that were denied excess fence heights
- What is the total number of non-permitted fences in the area that exceed the Ordinance Regulations

Staff did not have an exact number for either inquiry however the number of appeals did not appear to be great. BZA Members can submit comments to the BOS and/or attend future hearings.

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

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:

ADJOURNMENT: There being no further business, the hearing adjourned at 3:30.

CHRIS BAZAR - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS