

**MINUTES OF MEETING**  
**WEST COUNTY BOARD OF ZONING ADJUSTMENTS**  
**DECEMBER 5, 2007**  
**(APPROVED ON JANUARY 9, 2008)**

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

**FIELD TRIP: 11:00 p.m.**

**MEMBERS PRESENT:** Vice Chair, Frank Peixoto; Member, Kathy Gil.

**MEMBERS EXCUSED:** Chair; Jewell Spalding; and Members: Ineda Adesanya and Dawn Clark-Montenegro.

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

**FIELD TRIP:** The meeting adjourned to the field and the following properties were visited:

1. **KRISTIE CORUJO, CONDITIONAL USE PERMIT, C-8582 -**  
Application to allow continued operation of a community facility (Child Care) for 50 children, in an R-S-D-15 (Suburban Residence, 1,500 square feet Minimum per Dwelling Unit) District, located at 20166 Wisteria Street, east side, approximately 0.2 miles south of Somerset Avenue, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 084D-0130-066-00.
2. **TON CHOI, CONDITIONAL USE PERMIT, C-8661 –** Application to allow a towing and storage business, in a C-2 (General Commercial) District, located at 22008 Meekland Avenue, northeast side approximately 125 feet northwest of Poplar Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 429-0064-054-02.
3. **T MOBILE, CONDITIONAL USE PERMIT, C-8662 –** Application to allow a telecommunications facility (Cell Site) in a P-D (ZU-1334, 1336, 1341 Zoning Units) District, located at Coolidge Court, northeast side corner of Summer Glen Place, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 085A-0100-002-08.
4. **MICHAEL GAHAGAN CONDITIONAL USE PERMIT, C-8673 —**  
Application to allow a massage therapy business in the CVCBD Specific Plan – Sub 10 (Castro Valley Central Business District Specific Plan – Sub-area 9) District, located at 20997 Redwood Road, west side corner south west of Redwood Court, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 084A-0064-011-09.
5. **MIKE GOUREA, CONDITIONAL USE PERMIT, C-8675 –** Application to allow an indoor recreation facility (Basketball), in a C-1 (Retail Business) District, located at 676 Bockman Road, south side approximately 50 feet east of Via Arriba, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 412-0085-006-03.

6. **METRO PCS, CONDITIONAL USE PERMIT, C-8684** - Application to allow a telecommunications facility in an "A" (Agricultural) District, located at 17930 Lake Chabot Road, north side, approximately 0.34 of a mile east of Fairmont Drive, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 084D-1400-002-17.
7. **GIL BOIM, VARIANCE, V-12091** – Application to allow construction of an addition with a 4.75 foot side yard where 8 feet is required, in an R-1 (Single Family Residence) District, located at 15646 Wagner Street, northeast side, approximately 340 feet northwest of Drew Street, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 080D-0566-001-01.

**REGULAR MEETING: 1:30 p.m.**

**MEMBERS PRESENT:** Chair; Jewell Spalding; Vice Chair, Frank Peixoto; Members, Kathy Gil, and Ineda Adesanya.

**MEMBERS EXCUSED:** Dawn Clark-Montenegro.

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

There were approximately 9 people in the audience.

**CALL TO ORDER:**

The meeting was called to order by the Chair at 1:35 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 and November 14, 2007; to be continued to January 9, 2008)  
**Planner: Pat Anekayuwat.**

Vice Chair Peixoto asked staff why the second presentation of the item had been delayed. Staff told the Board the Fire Marshal had not conducted an inspection of the site. The Fire Marshal anticipated that the inspection would be complete by the January 9, 2008 Meeting. Vice Chair Peixoto asked if the Building Department had submitted a report. Staff had not yet received a report but anticipated that the Building Department would complete their inspection by the next meeting.

2. **MAURICE DAWSON, VARIANCE, V-12084** - Application to allow a two foot side yard setback where five feet is required, in an R-1-RV (Single Family Residence, Recreational Vehicle) District, located at 16715 Rolando Avenue, southwest side, approximately 280 feet northeast of Winding Boulevard, unincorporated San Leandro area of Alameda County, Designated Assessor's Parcel Number: 080A-0212-021-00. (Continued from October 24, 2007).  
**THIS APPLICATION HAS BEEN WITHDRAWN.**
  
3. **ARNOLDO HERNANDEZ / PETTIT, VARIANCE, V-11978 and SITE DEVELOPMENT REVIEW, S-2051**– Application to allow the conversion of an existing attached one car garage to living space and provision of two uncovered spaces in the rear, in an R-1-CSU-RV (Single Family Residential) District, located at 4421 Alma Avenue, south side, approximately, 770 feet west of Brickell Way, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084C-0820-014-00. (Continued from September 27 and November 8, 2006; January 10, March 28, June 27, July 25, September 12 and October 10, 2007). **Planner: Christine Greene.**  
**THIS APPLICATION HAS BEEN WITHDRAWN.**

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

#### **REGULAR CALENDAR**

1. **TON CHOI, CONDITIONAL USE PERMIT, C-8661** – Application to allow a towing and storage business, in a C-2 (General Commercial) District, located at 22008 Meekland Avenue, northeast side approximately 125 feet northwest of Poplar Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 429-0064-054-02. **Planner: Richard Tarbell.**

The staff recommendation was approval. The Chair asked Board Members that attended the Field Trip if the property was well maintained. Member Gil confirmed the site was well maintained. Public testimony was opened.

The Applicant, Mr. Ton was present. Mr. Ton was also representing his partner, Mr. Choi who was not present. The Chair asked Mr. Ton if he had read the staff report, and if he could comply with the recommendation of the Cherryland Association. Mr. Ton confirmed he had read the report. He was in agreement with all of the Conditions of Approval, as well as the recommendation of the HOA. The driveway area is always kept clean, and free of debris. Member Gil asked the Applicant when the fence was scheduled for replacement. Mr. Ton said he planned to replace the fence when the building was remodeled, adding a new office. At the time of replacement, the fence location will be moved closer to the sidewalk. The tow business which is also located on the site is on the opposite side of the property. Items, behind the fence are not currently visible. Any new fence would continue to visibly shield the area.

Member Gil proposed a Condition be added that requires fencing on the property to be kept in good repair. The Chair asked Mr. Ton if he would agree to replace the current fence within 60 days of approval. She reminded the Applicant that violation of Conditions of Approval could result in revocation. Mr. Ton agreed to replace the fence within 60 days. Public testimony was closed.

The Chair asked staff what methods were used to remove hazardous fluids generated from the business operating at the site. The Vice Chair asked if the Applicant had submitted a contract with a hazardous waste removal service. Also, what was the frequency in which hazardous materials were removed from the site. Mr. Ton responded that a hazardous materials disposal company removed waste on a monthly basis. The Chair recommended that Condition #7 be amended to include: Long term storage of hazardous materials on the property is not allowed. All hazardous materials must be removed in full compliance with all State, County, and Regulatory Agencies, regulations.

Vice Chair Peixoto motioned to uphold the staff recommendation of approval with the modification of Condition #7. Additional language shall state that: Long term storage of hazardous materials on the property is not allowed. All hazardous materials must be removed in compliance with all State, County, and Regulatory Agencies, regulations. Member Gil seconded the motion. Motion carried 4/0.

2. **MICHAEL GAHAGAN CONDITIONAL USE PERMIT, C-8673** — Application to allow a massage therapy business in the CVCBD Specific Plan – Sub 10 (Castro Valley Central Business District Specific Plan – Sub-area 9) District, located at 20997 Redwood Road, west side corner south west of Redwood Court, unincorporated Castro Valley area of Alameda County, bearing County Assessor’s designation: 084A-0064-011-09. **Planner: Pat Anekayuwat.**

Staff reviewed the application, and recommended approval. The Castro Valley Municipal Advisory Committee was also in favor of approval. Public testimony was opened.

The Applicant, Mr. Michael Gahagn was present. He hoped the Board would vote in favor of the application. Mr. Gahagan said from the start of the application process, he has been cognizant of possible issues surrounding a massage therapy business. In addition he talked with Supervisor Nate Miley to insure his business was acceptable for the area. One important criteria, was that the business be located in a clean, respectable area. The building design also had to be well lit. During the process he eliminated locations that were not, respectable. The business signage clearly states that only the services listed are offered. Mr. Gahagan has also worked with Deputy Ingles, of the Sheriff’s Department to ensure that the establishment will be in compliance, and follow all safety rules. The use is currently a second business for Mr. Gahagan. However, as the business grows. He would like to quit his evening job. The Chair asked Mr. Gahagan if he had read the staff report. Mr. Gahagan responded that he read the staff report but had a question regarding the Hours of Operation. His business model is to encourage appointments. However he would like to take walk in business and chiropractor referrals, too. The Chair recommended modifying Condition #3 to include the words: generally, by appointment, omitting the word, only. The modification was acceptable to Mr. Gahagan. Public testimony was closed.

Member Gil motioned to uphold the staff recommendation of approval, with the modification to Condition #3. Generally by appointment, shall replace the word, only. Vice Chair Peixoto seconded the motion. Motion carried 4/0.

3. **MAURO ESCOBAR, VARIANCE, V-12083** - Application to allow an attached addition with a six-foot front yard setback, and a three foot, seven inch rear yard setback where 20 feet is the minimum required in the front and rear yards, in a R-1 (Single Family Residence) District, located at 14747 Midland Road, west side, approximately 200 feet north of Placer Drive, unincorporated San Leandro area of Alameda County, bearing Assessor’s Parcel Number: 080-0002-001-04. (Continued from August 22, September 26 and October 10, 2007). **Planner: Andy Young.**

Staff reviewed the history of the Application and recommended denial. The item came before the Board 3 times, most recently on October 10, 2007. The item was continued by the Board, to allow staff to work with the Applicant to determine what type of Industry Professional might assist in determining the possibility of structure modification. Public testimony was opened.

Mr. Mauro Escobar, the Project Designer was present representing the Homeowners, Mr. & Mrs. Villanueva. Mr. Escobar told the Board that the contractor told himself and the property owners, that he had obtained permits for the project. Later it was discovered that the contractor took \$40,000.00 and disappeared. At this juncture, Mr. Escobar hoped to reduce the size of the structure, since construction is complete. He proposed to remove the rear storage room, to bring the addition into compliance with the Ordinance. New plans have been compiled, and were submitted on Friday. Board questions were as follows:

- Is Staff willing to allow additional time to consider the new proposal
- Can the slope of the property be considered a “Special Circumstance” since the staff report mentions a 7 foot difference in elevation between the floor level and the side yard of the addition
- What is the estimated discrepancy in distance to the front property line
- Was a “Stop Work Order” issued for the property
- What was the response of the Hillcrest Knolls Homeowners Association
- Have the Property Owners read the staff report, and do they understand the issues with the project
- Did Staff believe the addition could be brought into compliance

Staff said there were discrepancies between the existing floor, and site plan. This could affect the setbacks. Thus far, insufficient information has been submitted. Photographs of the site were then distributed. Regarding Special Circumstances, they do not apply to the site. A conforming addition could be built. The HOA was not in favor of approval. They believe the Homeowner should have insured Building Department requirements were followed. Mr. Escobar said he was willing to have to property surveyed to provide accurate measurements. He believes there may be a 2 or 3 foot discrepancy regarding the front yard property line. Mr. Escobar was not aware that the contractor made design changes, or continued to build. Mrs. Villanueva said that she had read the staff report. She stated that she English but Spanish is her first language. Mrs. Villanueva requested a continuance to have the property surveyed. The outcome of the survey will determine her final decision regarding the viability of the current proposal.

The Chair responded that demolishing a portion of the addition would be a substantive change. Although the application had been continued before, in comparison to other projects the time period had not been as lengthy. Staff received the new proposal on Friday. Additional time would be necessary for review. The record, regarding the application appeared to be incomplete. Staff may also want to have a Spanish speaking staff member, present. The Vice Chair did not believe the Applicant could meet Findings #1 and #2. Special Circumstances did not apply, and granting the application would be Special Privilege. The project did not comply with the Ordinance. Member Adesanya said she was not opposed to a continuance, if it appeared there were grounds on which to approve the project. If that was not a possibility, a continuance would not be appropriate. Member Gil thought the Board should attempt to get

a definitive answer as to the possibility of the structure being legalized. Public testimony was closed.

Member Adesanya motioned to continue the Application to the Hearing of January 23, 2008. Member Gil seconded the motion. The motion to continue V-12083 to January 23, 2008, carried 3/0. Vice Chair Peixoto was not in favor of a continuance. Member Clark was excused.

4. **GIL BOIM, VARIANCE, V-12091** – Application to allow construction of an addition with a 4.75 foot side yard where 8 feet is required, in an R-1 (Single Family Residence) District, located at 15646 Wagner Street, northeast side, approximately 340 feet northwest of Drew Street, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 080D-0566-001-01. **Planner: Richard Tarbell.**

Staff recommended approval of the application and distributed plans of the proposed addition. Board questions for staff were as follows:

- Does the project meet open space requirements
- Did the irregular shape of the lot occur as a result of a boundary adjustment

Staff confirmed that the open space requirements would be met. The rear yard has a 48 foot setback. Staff believed that when the neighborhood was originally created in 1950's, it was comprised of two separate tracts. There is one additional lot next to the parcel, with an odd shape. The lots probably resulted from designating sufficient area, for the corner parcel. If the parcel in question had been rectangular in shape, a 5 foot side yard would satisfy the Zoning Ordinance. Public testimony was opened.

The Property Owner, Mr. Alvard Zermeno was present. He was in agreement with the Conditions of Approval. Member Adesanya asked staff if a variance for the side yard would still be required for the parcel if the side yard were 5 feet. Staff explained it would. As a result of the 105 foot angled property line, the median lot width is increased. The side yard set back requirement increases to a minimum of 8 feet. However proportionally in relation to the distance required for a rectangular lot set at a 90 degree angle. The angled property line still retains the intent of the Ordinance, allowing open area. Public testimony was closed.

Vice Chair Peixoto motioned to uphold the staff recommendation of approval. Member Gil seconded the motion. Motion carried 4/0. Member Clark was excused.

#### **APPROVAL OF MINUTES:**

Vice Chair Peixoto motioned to accept the Minutes of October 24, 2007 as presented with the acknowledgement that he had recused himself on Item, V-12083-Esochar; which was correctly reflected in the Minutes. Member Gil seconded the motion. Motion carried 3/0. Member Clark was excused. Member Adesanya abstained from the vote, as she was not a Member of the Board on October 24, 2007.

Member Gil motioned to approve the Minutes of November 7, 2007. Vice Chair Peixoto seconded the motion. Motion carried 4/0. Member Clark was excused.

Vice Chair Peixoto motioned to approve the Minutes of November 14, 2007 as submitted. Member Adesanya seconded the motion. Motion carried 3/0. Member Gil abstained from the vote, as she was not present at the November 14, 2007 Meeting. Member Clark was excused.

**STAFF COMMENTS & CORRESPONDENCE:** Staff reminded the Board that due to the modified Holiday Schedule the December 12, 2007 Meeting would begin at 6:00 p.m.

**BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:** Member Adesanya submitted a correction to Board Contact List.

**ADJOURNMENT:** There being no further business, the hearing adjourned at 3:25 p.m.

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