

MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
APRIL 23, 2009
(APPROVED JUNE 11, 2009)

The meeting was held at the hour of 1:30 p.m. in the City of Pleasanton Council Chambers, 200 Old Bernal Avenue, Pleasanton.

FIELD TRIP: Cancelled

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Members Jon Harvey; Larry Gosselin, Chair and Jim Goff.

OTHERS PRESENT: Jana Beatty, Senior Planner and Nilma Singh, Recording Secretary

There were five people in the audience.

CALL TO ORDER: The meeting was called to order by the Chair at 1:30 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*

ANNOUNCEMENTS BY THE CHAIR: *None*

NEIGHBORHOOD PRESERVATION AND ZONING ORDINANCE ABATEMENT: *None*

Consent Calendar ~ *There were no items.*

Regular Calendar

1. **MAYANK PATEL, VARIANCE, PLN2009-00007** ~ Application to allow a five foot - six inch high fence where four feet is the maximum (within 20-feet of a key lot) and a five foot high fence on a retaining wall where two feet and zero foot are the maximum (front yard), in a P-D-ZU-2001 (Planned Development, Zoning Unit-2001) District, located at 844 Castlewood Place, southwest side, corner with Castlewood Drive, Pleasanton area of unincorporated Alameda County, bearing Assessor's Parcel Number: 946-4396-032-03. (Continued from March 26, 2009). **Staff Planner: Richard Tarbell**

Ms. Beatty presented the staff report and submitted a petition signed in support by Mr. Patel's neighbors and noted that some of the neighbors who had signed the petition in opposition have now signed in support. In response to the Chair, she added that staff was not sure of the exact number of other existing fences that were in violation.

Public testimony was called for. Mayank Patel, applicant, said that there are 36 fences on Castlewood Country Club that have been installed without height permits and, as such, the Association has no comments. Twelve neighbors have now signed a petition in support which he has submitted to staff. The

three neighbors who are in opposition also have higher fences allowed. Mr. Patel submitted photographs in support. Project planner, Richard Tarbell, had confirmed that no variances have been obtained for these fences. The main reason for Mr. Patel's request is to keep the deer out.

Fred Benn, property owner at 845 Castlewood Place, said he had submitted a petition in opposition which had been signed by every resident on his street. The fence which Mr. Patel is referencing is on the rear of his property for which a permit and a variance were approved. Mr. Patel's fence is in the front and at the curb of the street where there is no sidewalk. The house is very imposing on the street, the setback is off Castlewood Drive instead of Castlewood Place with a side yard setback on the main road which the house is facing. The house is a two-story house, built about 5-8 feet higher than the street and, as such, it is 45 feet high in access from the street; and the retaining wall is six feet high. This is not in harmony with the neighborhood and it is in violation with the CC&Rs. Mr. Benn urged the Board to look at the bigger picture: the owner had been cited by the Fire Department for weed abatement after the purchase of the property; then was cited during construction for trash; followed by a citation by Vector Control and also for water run-off and, since August 2008, Mr. Patel has been living in his house which does not have a final inspection. A temporary occupancy had been agreed upon with the Building Department during which time all deficiencies had to be corrected within 60 days. Mr. Patel had a written agreement with the neighbors and the Association that the retaining wall would be reduced to six feet which was higher than allowed under the CC&Rs and there would not be a fence over four feet and setback 6-10 feet. The Association has voted the proposal down and all the neighbors who are affected have requested a denial. Member Harvey asked if there had been any discussions on a compromise with the neighbors. Mr. Benn replied that there had been discussions with Mr. Patel in August, 2005; there was a signed written agreement as a compromise to the CC&R violations, a copy of which has been provided to this Board, which also required submittal of a landscape plan. No plan has been submitted to-date. Mr. Benn further pointed out that Mr. Patel is in violation with the Association regarding the color of his house and none of the agreements have been fulfilled. He would be able to provide email copies in support. In response to Member Goff, he confirmed that he had attended the last Association meeting but he was not a voting member. In response to the Chair, he confirmed that the Association did not take vote on the fence because of legal ramifications. Although there are other illegal fences in the neighborhood, they are setback 8-10 feet from the street. The Chair, noting the existence of the numerous illegal fences, thought that there is a need to modify the CC&Rs. Mr. Benn explained that it would be too costly and there are legal concerns.

Mr. Patel, in rebuttal, noted that there are twelve neighbors in support and per the Association, Mr. Benn's fence is also in violation. In response to Member Harvey that the Board, at the last hearing, had requested a compromise and a remedy, Mr. Patel said he had met with his neighbors and all are in support except for Mr. Benn and two others. The gate has been corrected to open inside the fence and Mr. Patel submitted photographs in support.

Public testimony was closed. Member Harvey discussed possible Board actions. Ms. Beatty noted that staff has expressed concern regarding adequate sight lines for vehicles (page 4) if an approval is granted. Member Goff asked when the Home Association response was received--before or after this Board's last meeting. Staff confirmed that there was no written response in file but the staff report reads: "April 5th meeting,...it voted four to two not to approve the plans as submitted..." which was after this Board's last meeting. Member Harvey said that although there are other nonconforming fences in the neighborhood, he could not make Finding #1 in the affirmative. *He made the motion to deny the variance and Member Goff seconded. The Chair re-stated that there is a 10-day appeal period and urged the applicant to work with the home association. Motion carried unanimously, 3/0.*

2. **3RD YEAR REVIEW OF CONDITIONAL USE PERMITS, ALTAMONT**

INFRASTRUCTURE COMPANY/ELLIOTT, C-8233; ALTAMONT
INFRASTRUCTURE COMPANY/CORBETT, C-8235; ALTAMONT
INFRASTRUCTURE COMPANY/DUNTON, C-8236; ALTAMONT
INFRASTRUCTURE COMPANY/VALHALLA ENTERPRISES, C-8237;
ALTAMONT INFRASTRUCTURE COMPANY/RALPH PROPERTIES II, C-
8238; ALTAMONT INFRASTRUCTURE COMPANY/WALKER FAMILY
TRUST, C-8241; ALTAMONT INFRASTRUCTURE COMPANY/MARIE
GOMES FARMS, C-8242 and C-8244; ALTAMONT INFRASTRUCTURE
COMPANY/FRICK, C-8036; ALTAMONT INFRASTRUCTURE
COMPANY/POMBO, C-8037; ALTAMONT INFRASTRUCTURE
COMPANY/ROONEY, C-8134; ALTAMONT INFRASTRUCTURE
COMPANY/MULQUEENEY, C-8137; WINDWORKS INC./MULQUEENEY, C-
8191; ALTAMONT INFRASTRUCTURE COMPANY/ALTAMONT LANDFILL-
WASTE MANAGEMENT, INC., C-8232; WINDWORKS INC./ ALAMEDA
COUNTY WASTE MANAGEMENT AUTHORITY, C-8216 and C-8243,
ALTAMONT INFRASTRUCTURE COMPANY/ALAMEDA COUNTY WASTE
MANAGEMENT AUTHORITY. (Continued from February 19, 2009).

Staff Planner: Andrew Young

The Board discussed the date of the next meeting in May. Member Harvey made the motion to continue the windfarm applications to May 21st and Member Goff seconded. Motion carried unanimously, 3/0.

APPROVAL OF MINUTES ~ *Member Harvey made the motion to approve March 26th minutes as submitted and the Chair seconded. Motion carried unanimously, 3/0.*

STAFF COMMENTS & CORRESPONDENCE: Staff provided an update on Wednesday night's South Livermore Valley Area Plan meeting. The Chair thought that there was need expressed for an agricultural infrastructure and perhaps replacing the word 'and' to 'or' with various stages of production

CHAIR'S REPORT: *None*

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: *None*

ADJOURNMENT: *There being no further business, the hearing was adjourned at 2:15 p.m.*

ALBERT LOPEZ - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS