

MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
APRIL 9, 2003
(APPROVED APRIL 23, 2003)

The meeting was held at the hour of 6:00 p.m. in the Auditorium of the Public Works Operations Building, 951 Turner Court, Hayward, CA

FIELD TRIP: 1:00 p.m.

MEMBERS PRESENT: Member Sharon Callaham

MEMBERS EXCUSED: Members Dennis Botelho, Chair; Ron Palmeri; Frank Peixoto and Jewell Spalding.

OTHERS PRESENT: L. Darryl Gray, Assistant Planning Director.

FIELD TRIP: The meeting adjourned to the field and the following property was visited:

1. **ROBERT A. HILL, DVM, CONDITIONAL USE PERMIT, C-8124** – Application to allow continued operation of a veterinary hospital, in a C-1 (Commercial) District, located at 22163 Redwood Road, west side, approximately 280 feet south of Lessley Avenue, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 415-0100-048-00.
2. **ARNOLD and JOYCE ADAMS, CONDITIONAL USE PERMIT, C-8130** – Application to allow expansion of an existing auto repair facility with the construction of: 1) an aluminum awning (16 feet x 60 feet); 2) roll-up door and cover of a storage area, and 3) installation of a portable office, in a P-D (Planned Development) District, located at 18811 Lake Chabot Road, southwest side, corner east of Huber Drive, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 084B-0502-044-00.
3. **RONALD VARGAS, CONDITIONAL USE PERMIT, C-8141** – Application to allow continued operation of an outdoor storage yard (recreational vehicles with 24 hour guard on premises) in a M-1 (Light Industrial) District, located at 22035 Meekland Avenue, southwest side, approximately 65 feet southeast of Poplar Avenue, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel Number: 0429-0064-019-02.
4. **DANIEL W. BOBBITT, CONDITIONAL USE PERMIT, C-8142** – Application to allow contractor's storage yard for equipment, supplies and containers, in a M-1-B-40 (Light Industrial, 40,000 square feet Minimum Building Site Area) District, located at 23222 Clawiter Road, east side, terminus of National Avenue, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel Number: 0441-0092-007-00.

5. **HOSANNA HOMES, CONDITIONAL USE PERMIT, C-8143** – Application to allow continued operation of a residential care facility, adding two modular trailers (Applicant requests a ten year renewal period), in an “A” (Agricultural) District, located at 9998 Crow Canyon Road, west side, approximately one mile north of Norris Canyon Road, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 0085-1902-001-00.
6. **JOSEPH SHINN and PAULA TATE, VARIANCE, V-11727** – Application to allow a three foot side yard where ten feet is minimum with the construction of an addition (garage) to an existing dwelling, expanding one of the two dwellings, in a PD [Planned Development, allowing R-1-L-B-E (40,000 Minimum Building Site Area)], District, located at 5064 Jensen Road, north side, approximately 700 feet northeast of the intersection with East Castro Valley Boulevard, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 0085-5450-004-00.
7. **GREGORY P BLUITT, Sr., VARIANCE, V-11729.**– Application to allow a detailed accessory structure (carport) on the front half of the lot where otherwise not permitted in a R-1-B-E-CSU-RV (Single Family Residence with 10,000 square feet Minimum Building Site Area, Conditional Secondary Unit and Recreational Vehicle) District, located at 2776 Pineridge Road, north side, approximately 510 feet northeast of Sheffield Road, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 084B-0396-010-00.
8. **CHRISTINE ARMSON, VARIANCE, V-11731** – Application to allow an accessory structure with a 30 square foot bath where a 20 square foot bath if allowed, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 4231 Somerset Avenue, south side corner, south of Salem Road, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 084C-0757-032-00.
9. **JAY and CORRINE GOLDBERG, VARIANCE, V-11732** – Application to allow a 20 foot rear yard where 30 feet is required, in a P-D (Planned Development, 1268th Zoning Unit) District, located at 18745 E. Cavendish Drive, west side, approximately 580 feet northeast of W. Cavendish Drive, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 085-6305-020-00.
10. **JOAO M. CARDOSO, VARIANCE, V-11734** – Application to allow eight dwelling units (seven new and one existing) providing a three foot setback from the access driveway where 10 feet is required, in a R-S-D-25 (Suburban Residence, 2,500 square feet Minimum Building Site Area per dwelling) District, located at 20161 Royal Avenue, southwest side, approximately 320 feet southeast of Bartlett Avenue, unincorporated Hayward area of Alameda County, bearing Assessor’s Parcel Number: 0432-0004-005-02.
11. **MARC MARQUILIES, VARIANCE, V-11737** – Application to allow retention of an accessory structure (existing garage) without a principal use (on Parcel B of

PM-8118), in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 5156 Proctor Road, north side, approximately 805 feet west of Redwood Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 084C-0970-005-02.

Neighborhood Preservation Ordinance Abatement Hearing

Time: 5:30 p.m. – 6:00 p.m.

Place: County of Alameda, Public Works Operations Building,
951 Turner Court, Hayward, California

REGULAR MEETING: 6:00 p.m.

MEMBERS PRESENT: Members Dennis Botelho, Chair; Sharon Callaham; Ron Palmeri; Frank Peixoto; Jewell Spalding.

MEMBERS EXCUSED: None.

OTHERS PRESENT: L. Darryl Gray, Assistant Planning Director; Kate Conner, Planner I; Richard Tarbell, Planner II, Nilma Singh, Recording Secretary

There were approximately ten people in the audience.

CALL TO ORDER/ROLL CALL:

The meeting was called to order by the Chair at 6:00 p.m.

ANNOUNCEMENTS BY THE CHAIR:

The Chair reminded the audience that all cell phones and pages be turned off during the public hearing.

CONSENT CALENDAR:

1. **REY PAGARIGAN, CONDITIONAL USE PERMIT, C-7267** – **Consideration of Revocation** of Conditional Use Permit, C-7267, that allows operation of a residential care facility up to 44 beds subject to 23 conditions. A condition of approval requires that residents of Valley Manor Community Care Home that exhibit violence or participate in the harassment of neighbors be immediately discharged as described under the State of California government code. It has been alleged that the facility is not in compliance with the above condition. The subject property is located in a R-1-CSU-RV (Single Family

Residence, Conditional Secondary Unit, Recreational Vehicle) District, located 17926 Apricot Way, east side, approximately 70 feet north of Seaview Avenue, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 084C-0921-108-02. (Continued from March 26; to be continued without discussion to May 14, 2003).

2. **DOMINICK and LINDA CUEVAS, CONDITIONAL USE PERMIT, C-7780** – Application to allow operation of a commercial horse boarding facility for up to 20 horses in an “A” (Agricultural, 100 acre Minimum Building Site Area Per Dwelling Unit) District, located at 1151 Calhoun Street, approximately 0.5 miles east of Mission Blvd, unincorporated South Hayward area of Alameda County, bearing Assessor's Parcel Number: 083-0100-001-03. (Continued from January 23, February 27, May 8, July 24, September 25, October 23, November 20, 2002, January 22, February 5, March 12, 2003; to be continued without discussion to June 11, 2003).
3. **JOHN T. ARKEDER, CONDITIONAL USE PERMIT, C-8014** – Application to allow construction of a secondary unit in a R-1-CSU-RV (Single Family Residential, Conditional Secondary Unit, Recreational Vehicle) District, located at 18975 Parsons Avenue, west side, approximately 150 feet south of Link Court, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 084D-1328-007-01. (Continued from October 23, 2002, January 22, 2003; to be continued without discussion to July 23, 2003).
4. **FRANCES SHERMAN, CONDITIONAL USE PERMIT, C-8017** – Application to allow continued operation of an outdoor storage facility in a M-1 (Light Industrial) District, located at 2227 Dunn Road, north side, approximately 650 feet west of the intersection with Clawiter Road, unincorporated Mt. Eden area of Alameda County, bearing Assessor's Parcel Number: 439-0016-019-02. (Continued from November 13, 2002, January 8, February 5 and March 12; to be continued without discussion to May 14, 2003).
5. **ARNOLD and JOYCE ADAMS, CONDITIONAL USE PERMIT, C-8130** – Application to allow expansion of an existing auto repair facility with the construction of: 1) an aluminum awning (16 feet x 60 feet); 2) roll-up door and cover of a storage area, and 3) installation of a portable office, in a P-D (Planned Development) District, located at 18811 Lake Chabot Road, southwest side, corner east of Huber Drive, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 084B-0502-044-00. (To be continued without discussion to April 23, 2003).
6. **RONALD VARGAS, CONDITIONAL USE PERMIT, C-8141** – Application to allow continued operation of an outdoor storage yard (recreation vehicles with 24 hour guard on premises) in a M-1 (Light Industrial) District, located at 22035 Meekland Avenue, southwest side, approximately 65 feet southeast of Poplar Avenue, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel Number: 0429-0064-019-02. (To be continued without discussion to June 11, 2003).

7. **SANTA FE SPECIAL EVENTS, VARIANCE, V-11637** - Application to expand a non-conforming use (commercial assembly hall and catering business in a residential district) by the addition of a patio cover and interior remodeling, in a R-1 (Single Family Residence) District, located at 18310 Ricardo Avenue, east side, corner of Hacienda Avenue, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel Number: 0412-0065-001-00. (Continued from July 24, August 14 & 28, September 11, 2002, January 8, 2003; to be continued without discussion to May 14, 2003).

Member Spalding made the motion to approve the Consent Calendar per staff recommendations. Member Peixoto seconded the motion, which carried 5/0.

REGULAR CALENDAR:

1. **DANIEL W. BOBBITT, CONDITIONAL USE PERMIT, C-8142** – Application to allow contractor's yard for equipment, supplies and containers, in a M-1-B-40 (Light Industrial, 40,000 square feet Minimum Building Site Area) District, located at 23222 Clawiter Road, east side, terminus of National Avenue, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel Number: 0441-0092-007-00.

Mr. Gray read the project description.

Public testimony was called for. John Dunsing, business owner, requested a month's continuance adding that he was in receipt of new requirements from various agencies and, as such, was having new site plans drawn. The vehicles stored in the rear of the property belonged to the tenant and were not part of his business. The tenant has now been evicted and he had the entire property for his business only.

Public testimony was closed. Member Peixoto made the motion to continue the application to May 14, 2003. Member Spalding seconded the motion, which carried 5/0.

2. **JOSE FERNANDEZ, VARIANCE, V-11643** – Application to retain an existing dwelling providing 740 square feet of open space [1,800 square feet required on a lot containing a 13 foot driveway (20 feet required), zero foot setback from driveway to dwelling (10 feet required)], in a R-S-D-20 (Suburban Residence, 2,000 square feet per dwelling unit density) District, located at 254 Poplar Avenue, northwest side, approximately 250 feet southwest of the intersection with Princeton Street, unincorporated Cherryland area of Alameda County, bearing Assessor's Parcel Number: 429-0091-026-02. (Continued from January 8, 2003).

Kate Conner, Staff Planner, read the project description.

Public testimony was called for. Jose Fernandez with the aid of an interpreter, stated that the unit was already built. Member Palmeri asked when the unit was built, who built it and if it was built with a permit. Mr. Fernandez replied that he had built it about 1½ years ago but without a permit. In response to Member Spalding, Ms. Conner provided clarification on the proposal, which was to attach the unpermitted unit to the rear unit. The Chair asked for the number of families living in each unit. Mr.

Fernandez replied one.

Public testimony was closed. Member Palmeri pointed out that although the Applicant had been aware that permits were required, he had built the unit without the benefit of a permit. All the lots were of similar size in the area and, as such, there was no circumstance to grant special privileges and, a parking problem already exists in this neighborhood. He concurred with staff's recommendation for a denial. Member Spalding agreed with Member Palmeri, noted the lack of open space and asked if re-location will take care of the adverse affects. Mr. Gray replied that attaching to the rear unit moves the unit away from the property line and provides more parking spaces. Member Palmeri then pointed out the negative responses from the different agencies.

At the request of the Applicant, public testimony was re-opened. Mr. Fernandez's interpreter further explained that the earlier variance application was not denied. They were informed by Planning staff that three units were allowed.

Public testimony was re-closed. The Chair agreed with Member Palmeri. Member Palmeri moved the motion to adopt the findings and deny the application as recommended by staff. Member Callahan seconded the motion which carried 5/0.

3. **THUAN DUC TRAN, VARIANCE, V-11691** – Application to allow construction of two dwelling units providing a zero foot setback from the driveway to both dwelling walls where 10 feet is required and a 16 foot wide driveway where 20 feet is required, in a R-S-SU (Suburban Residence, Secondary Unit) District, located at 251 Medford Avenue, south side, approximately 200 feet west of Lowell Avenue, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel Number: 0429-0014-001-00. (Continued from November 20, December 18, 2002; February 26 and March 26, 2003).

Mr. Gray read the project description. Member Palmeri asked if the project could be modified to avoid the zero foot setback. Mr. Gray explained the alternatives and a more discussion followed.

Public testimony was called for. Thuan Tran, Applicant, stated that after the last hearing, revised plans were submitted showing a 10 foot setback. Mr. Gray explained that now the application was for a one foot setback where 10 feet is required and a 16 foot wide driveway.

Public testimony was closed. Member Peixoto questioned the Fire Department's requirement for fire sprinklers and asked why Hayward Fire Department was included under Condition #3(b). Mr. Gray explained that the requirement for fire sprinklers was not included in staff's recommended conditions and suggested deleting Condition #3(b) and if approved, it would be subject to Exhibit "B". Member Palmeri made the motion to approve the application subject to Exhibit 'B' and staff's recommended conditions. Member Callahan seconded the motion, which carried 5/0.

4. **L. FU/DAVID LAU, VARIANCE, V-11708** – Application to allow construction of three new dwellings providing: 1) six feet side yard where 15 feet is required; 2) zero foot setback from the driveway to two dwelling unit walls where 10 feet is required; and 3) 12 feet driveway where 20 feet is required, in a R-3 (Three Family Residence) District, located at 2256 Regent Way, southeast side, approximately 420 feet northeast of Cross Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 084A-0270-006-00. (Continued from January 8, February 5, February 26 and March 26, 2003).

Mr. Gray read the project description and provided clarification on the zoning classification and the number of units allowed. Member Palmeri asked if the units could be re-designed to delete the setback variances. Mr. Gray indicated that providing required setbacks would result in much smaller units.

Public testimony was called for. David Lau, property owner, pointed out that his plans were exactly the same as other existing houses. Another similar variance was approved two houses down the street. In response to Member Spalding, he confirmed that one, two-story duplex was being proposed. He pointed out that none of the existing multiple buildings in this area were built with the required setbacks.

Public testimony was closed. Mr. Gray explained that the other variances approved in the area may have had different circumstances and staff was not recommending an approval. The Chair indicated that since Castro Valley Municipal Advisory Council had concerns on a similar application, he asked if this variance application could be referred to the Council. Mr. Gray replied that he would check as it might set a precedent since other variances are not currently referred to the Council. Member Palmeri indicated that he could not make the findings in the affirmative. Member Spalding suggested taking the Applicant's testimony into consideration for completion of the staff report.

Public testimony was re-opened. The Chair asked Mr. Lau whether he wanted a continuance or a decision today. Mr. Lau opted for a continuance. Public testimony was re-closed.

Member Palmeri made the motion to continue the matter to May 14. Member Spalding seconded the motion, which carried 5/0.

4. **JOSEPH SHINN and PAULA TATE, VARIANCE, V-11727** – Application to allow a three foot side yard where ten feet is minimum with the construction of an addition (garage) to an existing dwelling, expanding one of the two dwellings, in a PD [Planned Development, allowing R-1-L-B-E (40,000 Minimum Building Site Area) District, located at 5064 Jensen Road, north side, approximately 700 feet northeast of the intersection with East Castro Valley Boulevard, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 0085-5450-004-00.

Richard Tarbell, Staff Planner, read the project description.

Public testimony was called for. Joseph Shinn, Co-applicant, concurred with the recommended conditions adding that he has lived on this property for the last twenty-seven years. This was a rural area with a lot of open space. There was no plan to change grading or drainage.

Public testimony was closed. Member Peixoto made the motion to approve the application per staff's recommendation. Member Spalding seconded the motion, which carried 5/0.

5. **GREGORY P. BLUITT, Sr. VARIANCE, V-11729** – Application to allow detailed accessory structure (carport) on the front half of the lot where otherwise not permitted, in a R-1-B-E-CSU-RV (Single Family Residence with 10,000 square feet Minimum Building Site Area, Conditional Secondary Unit and Recreational Vehicle) District, located at 2776 Pineridge Road, north side, approximately 510 feet northeast of Sheffield Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 084B-0396-010-00.

Kate Conner, Staff Planner, read the project description.

Public testimony was called for. Mrs Sylvia Bluitt complained that the staff report was erroneous. Using the word 'carport' was incorrect as this plan was only to provide a roof for their car. Their property had road access on three sides while the other properties in the neighborhood had only one street access. She disagreed with the three findings adding that three other neighbors enjoyed similar privileges.

Public testimony was closed. In response to the above testimony, Mr. Gray stated that the findings were not erroneous but that the applicant differed with staff's opinion. He explained that if the Board was considering granting this application, staff could now provide modified findings and conditions of approval for the Board to consider. A discussion followed regarding special circumstances, Zoning Ordinance definition for a carport, location of the carport and accessory structures. The Chair felt that the house built with a single car garage when every other property in the area was built with a two-care garage, should be considered as special circumstances. He asked for tentative conditions. Mr. Gray replied that an approval could be subject to three conditions such as: 1) this permit would authorize a detached accessory structure where otherwise not allowed; 2) meet the requirements of the Building Department, Grading Department and Development services; and 3) that the accessory structure be compatible with existing dwelling. The Chair made the motion to modify the findings to the affirmative and approve the application subject to the above three conditions. Member Peixoto seconded the motion, which carried 5/0.

APPROVAL OF MINUTES: March 12 and March 26, 2003. Minutes were not available and, as such, were moved to the next meeting.

STAFF COMMENTS & CORRESPONDENCE:

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.

CHAIR'S REPORT:

The Chair provided a layout of the new public hearing room and asked that comments be forwarded to him.

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: None

ADJOURNMENT:

Being no further business, the hearing was adjourned at 7:45 p.m.

JAMES SORENSEN - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS