

**MINUTES OF MEETING**  
**WEST COUNTY BOARD OF ZONING ADJUSTMENTS**  
**AUGUST 13, 2003**  
**(APPROVED SEPTEMBER 10, 2003)**

The meeting was held at the hour of 6:00 p.m. in the Alameda County Building, 224 West Winton Avenue, Hayward.

**FIELD TRIP: 1:00 p.m.**

**MEMBERS PRESENT:** Members Dennis Botelho; Sharon Callaham and Frank Peixoto, Chair.

**MEMBERS EXCUSED:** Members Jewell Spalding and Ron Palmeri.

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

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

1. **H.A.R.D., CONDITIONAL USE PERMIT, C-8185** – Application to allow expansion of an existing neighborhood park by the addition of a Skate Park and restroom building, in a R-S-D-3 and R-S-D-35 (Suburban Residence, 3,000 square foot Minimum Building Site Area per dwelling unit; and Suburban Residence, 3,500 square foot Minimum Building Site Area per dwelling unit) District, located at 182-204 Grove Way, north side, approximately 490 feet west of Haviland Avenue, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel Number: 0429-0028-046-00.
2. **IGNACIO A. GOMEZ, CONDITIONAL USE PERMIT, C-8186** – Application to allow operation of a temporary outdoor business (Taqueria Truck) on a specified site, in a C-1 (Retail Business) District, located at 22058 Center Street, east side, approximately 142 feet north of Grove Way, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 0417-0010-003-03.
3. **LUIS and EVA BRISENO/ELPIDIO RAMOS, VARIANCE, V-11759** – Application to allow construction of a two-story dwelling in which a 14 foot side yard is provided where 15 feet is required, and a driveway six feet eight inches from a dwelling wall where ten feet is required, in a R-3-B-E (Four Family Residence, 8,750 square feet Minimum Building Site Area) District, located at 1465 – 166<sup>th</sup> Avenue, northwest side, approximately 420 feet northeast of East 14<sup>th</sup> Street, unincorporated San Leandro area of Alameda County, bearing Assessor's Parcel Number: 080-0076-026-00.
4. **REED and JEANETTE ADAMS, VARIANCE, V-11771** - Application to allow construction of a 24 feet x 32 feet, one story addition to a residence providing a 12 foot minimum front yard where 20 feet is required, in a R-1-B-E-CSU-RV (Single Family Residence, 7,000 square feet Minimum Building Site Area, 20 foot Front Yard, seven foot Side Yard, Conditional Secondary Unit, Recreation Vehicle) District, located at 18517 Greenridge Court, northwest side,

approximately 228 feet southwest of Greenridge Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 0085-1613-008-00.

5. **JARNAIL S. UBHI, VARIANCE, V-11772** – Application to allow construction of a single family residence 36 feet in height where 25 feet is the maximum, in a R-1-RV (Single Family Residence, Recreational Vehicle) District, located at 16859 Robey Drive, west side, approximately 328 feet southwest of 167<sup>th</sup> Avenue, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 080A-0220-007-00.
6. **WEST COAST REALTY, VARIANCE, V-11773** – Application to allow subdivision of one parcel into two lots thereby reducing one lot in area from 5,000 square feet to 4,690 square feet minimum building site area, in a R-S-D-20 (Suburban Residence, 2,000 square foot Minimum Building Site Area/Dwelling Unit) District, located at 20955 Hathaway Avenue, southwest side, corner of the intersection with Dell Court, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel Number: 0429-0041-075-00.
7. **ARMANDO PLASCENCIO, VARIANCE, V-11775** – Application to remodel an existing dwelling and construct a four car garage with a third dwelling providing four parking spaces where six are is required and five foot side yard where six feet and 15 feet are required, in a R-3-B-E (Four Family Residence, 8,750 square feet Minimum Building Site Area) District, located at 1507 – 166<sup>th</sup> Avenue, northwest side, approximately 715 feet southwest of Los Banos Street, unincorporated San Leandro area of Alameda County, bearing Assessor's Parcel Number: 80-0076-009-00.
8. **LISA LO, VARIANCE, V-11785** – Application to allow 202 parking spaces in the shopping center where 239 parking spaces are required, in a C-1 (Retail Business) District, located at 17650-18502 Hesperian Boulevard, east side corner of Hacienda Avenue, unincorporated San Lorenzo area of Alameda County, bearing Assessor's Parcel Number: 0412-0071-024-04.

**REGULAR MEETING: 6:00 p.m.**

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

**MEMBERS EXCUSED:** None.

**OTHERS PRESENT:** Tona Henninger, Code Enforcement Manager; Investigating Officers Lacy Starling, Lora Hogan and Damien Curry; Phil Sawrey-Kubicek, Senior Planner; Kate Conner, Planner I; Deric Licko, Contract Planner; and Nilma Singh, Recording Secretary

There were approximately 23 people in the audience.

**CALL TO ORDER:**

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

## Neighborhood Preservation Ordinance Abatement Hearing

**ANNOUNCEMENTS BY THE CHAIR:** None.

### **CONSENT CALENDAR:**

1. **BOB MASON, CONDITIONAL USE PERMIT, C-7756** – Application to modify Conditional Use Permit, C-7447 to allow: 1) storage for 20 vehicles; 2) increase from 125 to 145 horses; and 3) to add a feed store at an existing breeding, boarding and training facility for 125 horses, in an “A” (Agricultural) District, located at 24550 Palomares Road, east side, approximately ¼ mile south of Palo Verde Road, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 085A-2700-001-07. (Continued from December 11, 2002; February 26, March 26, April 23, May 28, June 25 and July 23, 2003; to be continued without discussion to September 10, 2003).
2. **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 the intersection with Norris Canyon Road, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 085-1902-001-00. (Continued from April 28, May 28 and July 23, 2003; to be continued without discussion to August 27, 2003).
3. **MONTESSORI SCHOOL/PAMELA RIGG, CONDITIONAL USE PERMIT, C-8178** – Application to allow expansion of an existing nursery school and day care center from 60 to 90 children and construction of two attached additions, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 19234 Lake Chabot Road, east side, approximately 75 feet north of the intersection with Barrett Court, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 084B-0529-011-02. (To be continued without discussion to September 24, 2003).
6. **WEST COAST REALTY, VARIANCE, V-11773** – Application to allow subdivision of one parcel into two lots thereby reducing one lot in area from 5,000 square feet to 4,690 square feet minimum building site area, in a R-S-D-20 (Suburban Residence, 2,000 square foot Minimum Building Site Area/Dwelling Unit) District, located at 20955 Hathaway Avenue, southwest side, corner of the intersection with Dell Court, unincorporated Hayward area of Alameda County, bearing Assessor’s Parcel Number: 0429-0041-075-00.

The Chair suggested moving Regular Calendar item 6 to the Consent Calendar since it was recommended to be continued without discussion to September 10, 2003. Member Botelho made the motion to approve the Consent Calendar per staff recommendations and with the above modification. Member Callahan seconded the motion, which carried 5/0.

**REGULAR CALENDAR:**

1. **JOSEPH and JULIANA TABURAZA, CONDITIONAL USE PERMIT, C-8158**  
– Application to allow the operation of a residential care facility for eight elderly adults in an R-1-B-E (Single Family Residence with 6,000 square foot Minimum Building Site Area, 60 feet Median Lot Width, 20 foot Front Yard, 20 foot Side Yard) District, located at 2767 Colony View Place, south side, approximately 150 feet east of Winfeldt Road and Second Street, unincorporated Fairview area of Alameda County, bearing Assessor's Parcel Number: 0425-0170-085-00. (Continued from June 11 and July 9, 2003).

Ms. Conner read the project description. Member Spalding pointed out that there was no discussion on Fairview Specific Plan in the staff report.

Public testimony was called for. Juliana Taburaza, Co-applicant, said this was a very nice, clean facility and the application was for an increase from six to eight residents. Public testimony was closed.

Member Botelho said he had parking concerns and asked where the two full time employees park. Ms. Conner, with the submitted plan, indicated that staff parked in the existing garage and there was space available behind the garage. Member Spalding asked if a referral had been sent to the East Hills Homeowner's Association and noted that such facilities were required to be in compliance with the landscape policy, which was not included in the recommended conditions. She re-stated that there was no discussion on the Fairview Specific Plan and, as such, suggested a continuance. Member Botelho disagreed. Member Palmeri made the motion to adopt the findings and approve the application subject to the recommended conditions, two additional conditions to reflect the requirements of landscape/walkway policy, provide designated handicap parking areas prior to issuance of building permit and modify Condition 17 to read review in one year, expiration in three years. Member Callahan seconded the motion. Member Botelho recommended that this matter be heard again by this Board if there was a change in ownership or use. Motion passed 5/0.

2. **VISION HOMES, LLC., VARIANCE, V-11750** – Application to allow construction of a single family residence providing a 20 foot front yard where 30 feet is required and an eight foot side yard where 10 feet is required, in a R-1-B-E (Single Family Residence, 10,000 square foot Minimum Building Site Area, 30 foot Front Yard, 10 foot Side Yard) District, located at 24082 Madeiros Avenue, south side, approximately 1,120 feet southwest of Randall Way, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel Number: 0426-0050-064-00. (Continued from June 11, 2003).

Mr. Sawrey-Kubicek read the project description.

Public testimony was called for. A representative indicated that the road maintenance letter will be obtained. Public testimony was closed.

Member Palmeri made the motion to adopt the findings and approve the application subject to the five recommended conditions. Member Botelho seconded the motion, which carried 5/0.

3. **WEST COAST REALTY, VARIANCE, V-11758** – Application to allow subdivision into two lots thereby maintaining a nonconforming use (commercial building in residential district without required off-street parking) and side yard to existing dwelling unit, in a R-1 (Single Family Residence) District, located at 21129 Haviland Avenue, west side, corner southwest of the intersection with Blossom Way, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel Number: 0429-0028-029-00. (Continued from July 23, 2003).

Mr. Sawrey-Kubicek read the project description.

Public testimony was called for. A representative was available but no testimony was submitted. Public testimony was closed.

Member Botelho asked whether the structure or the use was nonconforming. Member Palmeri said he was troubled that this was already a nonconforming use and in addition, a variance was being sought for reduced setbacks. Parking was a problem in this neighborhood, on this street and the side street. He disagreed with the first finding that were special circumstances and felt that a denial would stop future problems. Member Spalding agreed. The Chair requested clarification on the last paragraph on Page 2 regarding parking. Member Botelho agreed with Members Palmeri and Spalding and made the motion to deny the application. Member Callahan seconded the motion, which carried 5/0.

4. **REED and JEANETTE ADAMS, VARIANCE, V-11771** - Application to allow construction of a 24 feet x 32 feet, one story addition to a residence providing a 12 foot minimum front yard where 20 feet is required, in a R-1-B-E-CSU-RV (Single Family Residence, 7,000 square feet Minimum Building Site Area, 20 foot Front Yard, seven foot Side Yard, Conditional Secondary Unit, Recreation Vehicle) District, located at 18517 Greenridge Court, northwest side, approximately 228 feet southwest of Greenridge Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 0085-1613-008-00.

Mr. Licko read the project description and in response to Member Botelho, distributed revised plans to all the Board members, noting that the addition has been reduced in size. A discussion followed regarding the open space under the addition and reduced setback.

Public testimony was called for. Steve Savage, Engineering Consultant, said the plans were revised to reflect what the owner wanted and to provide soft frontal landscaping. In response to Member Botelho, he explained that the roof-line was only about two feet out of the existing garage but followed other roof lines. In reference to excavation (paragraph three on Page 2), Member Spalding asked for the number of loads. Mr. Savage replied that a Grading Permit has been obtained and it would be approximately seven loads. Member Palmeri discussed the Tentative Findings and asked if this addition would be consistent with the CC&R and the Homeowners Association's requirements. Ms. Jeanette Adams, Co-Applicant, replied that they had received a letter from the Association in support and had explained the project orally to the neighbors who did not have any concerns.

Robert Neff, property owner at 18533 Greenridge Court, spoke against the project. His concerns were drainage problems, affect on his quality of life and blockage of sun and view. He pointed out that this

would not be a single story but a two-story addition.

Public testimony was closed. Member Callaham felt that this addition would not be consistent with the other existing houses in the neighborhood as the additional two feet would make it appear out of place. Member Spalding noted the last sentence of the First Finding. Member Botelho said that the First Finding was still questionable and Mr. Licko thought that the number of feet from the curb was also questionable. Public testimony was re-opened. Mr. Savage explained that run-off water would be collected and directed towards the rear which would resolve the drainage issue. The underneath would be unfinished and used for storage but will not be seen from the street. Member Spalding made the motion to approve the application as recommended by staff. Motion was not seconded. Member Botelho felt that the addition should be consistent with the existing dwelling (the setbacks and roof-line) and per Greendridge Caldwater CC&R requirements. The Chair noted the response from Mr. Harley. Member Palmeri said that this was a design choice and a denial would not limit the owner to enjoy the property. He was troubled with the special circumstances in this subdivision. Member Callaham pointed out that no variance for reduced setback has been approved in this area and, hence, an approval would set a precedent. She made the motion for a continuance for 30 days, to September 10<sup>th</sup>, during which time a response could be obtained from the home association regarding CC&R restrictions. Member Spalding seconded the motion. The Chair clarified that the front setback and not the roof design was an issue. Motion carried 5/0.

5. **JARNAIL S. UBHI, VARIANCE, V-11772** – Application to allow construction of a single family residence 36 feet in height where 25 feet is the maximum, in a R-1-RV (Single Family Residence, Recreational Vehicle) District, located at 16859 Robey Drive, west side, approximately 328 feet southwest of 167<sup>th</sup> Avenue, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 080A-0220-007-00.

Mr. Licko read the project description, noting the Addendum staff report.

Public testimony was called for. Stan Nielsen, Project Architect, said he had not read the amended staff report. The Chair explained that the amended report added compliance to the Fire Department's requirements. He also noted the second paragraph on Page 2 under Planning Considerations regarding other approved variances. Mr. Nielsen further described the proposal noting that the driveway would be on the lower side of the property and 12 feet above street level.

The adjacent neighbor, in opposition, said that a 36 feet high home would block his view.

Joe Homen, property owner at 16882 Robey Drive, said the height should be consistent with the neighborhood.

Public testimony was closed. The Chair felt that topography should be taken into consideration and Member Jewell said that the height should be consistent with the neighborhood. Member Palmeri recommended a continuance to resolve confusion and make appropriate findings and recommendations. He made the motion to continue the matter to September 10, 2003. Mr. Licko agreed that there was some confusion on the grade and measurement of the roof. Member Botelho seconded the motion, which carried 5/0.

6. **WEST COAST REALTY, VARIANCE, V-11773** – Application to allow subdivision of one parcel into two lots thereby reducing one lot in area from 5,000 square feet to 4,690 square feet minimum building site area, in a R-S-D-20 (Suburban Residence, 2,000 square foot Minimum Building Site Area/Dwelling Unit) District, located at 20955 Hathaway Avenue, southwest side, corner of the intersection with Dell Court, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel Number: 0429-0041-075-00.

This item was moved to the Consent Calendar to be continued without discussion to September 10, 2003.

7. **LISA LO, VARIANCE, V-11785** – Application to allow 202 parking spaces in the shopping center where 239 parking spaces are required, in a C-1 (Retail Business) District, located at 17650-18502 Hesperian Boulevard, east side corner of Hacienda Avenue, unincorporated San Lorenzo area of Alameda County, bearing Assessor's Parcel Number: 0412-0071-024-04.

Mr. Sawrey-Kubicek read the project description.

The Chair announced a five-minute recess and the hearing reconvened at 7:45 p.m.

Member Botelho read the second paragraph on the Addendum staff report, discussed the parking situation and asked how the numbers and percentages were calculated. He also asked the size of a parking space as required by the Ordinance. Mr. Sawrey-Kubicek noted that the staff report did not reflect 'standard parking spaces' which would be 10 feet x 18 feet. Member Palmer asked why a variance was being requested now. Mr. Sawrey-Kubicek replied that it was a result of the widening of Hesperian Boulevard which has resulted in loss of parking spaces and the need for different parking requirements for all different types of uses which has been triggered by subdivision. Member Botelho asked if building permits had been obtained for the subdivisions. Member Spalding pointed out that although compact parking was not allowed in the County, the project description states 24 compact spaces. Mr. Sawrey-Kubicek explained that compact parking was only allowed in Castro Valley and the 24 compact spaces was part of the variance application.

Public testimony was called for. Eddy Shen, project architect, further described the parking situation adding that handicap parking spaces have to be provided also. The removal of the shed has provided five additional spaces and the other eight new spaces, a total of 13 new parking spaces, has brought the total to 232 parking spaces. He confirmed that building permits had been obtained for the subdivision. Member Palmeri asked if the re-striping would be for standard parking spaces. Mr. Shen replied that they were re-striping over the existing spaces. Member Palmeri asked for the total number of standard and compact parking spaces. Member Botelho agreed adding that clarity was needed. In response to Member Callahan, Mr. Shen agreed to the recommended conditions.

Gary Sidhu, General Contractor, spoke in favor of the proposal. The Subway project was 95% completed and now the permit has been revoked. If there had been problems/concerns, permits should not have been issued.

Manju Upadhyaya, co-owner of the Subway, also complained that their permit has been revoked and further explained their financial hardship. Mr. Rahul Upadhyaya added that he has used all his savings and paid five months rent to the Applicant and how his permit has been revoked. He urged an opportunity to allow completion of his project.

Robert Warfield, owner of Zorba's Deli, said his concern was lack of parking. He has been operating at this site for twelve years. He complained that the Applicant did not enforce parking as employees continue to park in front of the businesses.

Howard Beckman, San Lorenzo resident, said he wanted to see small businesses succeed. The tenants were suffering because of the Applicant. He felt that parking issues will become more controversial especially with the new commercial uses. Mr. Beckman asked when the building permits were obtained, before or after division. He was opposed to compact parking spaces which was also contrary to the public interest and was not allowed in this area.

Kathy Ready said she appreciated that the Applicant had removed the shed. She felt that standard spaces and designated employee parking were needed.

Public testimony was closed. Member Palmeri said that not enough information was available to make a decision. It was not clear how many standard sized parking spaces could be accommodated on this property and the actual numbers for each type of parking space requested under this variance application. If it was based on uses, then specific numbers should be tied to specific types of uses. The Chair asked what would happen if this variance is denied. Mr. Sawrey-Kubicek replied that no new building permits would be issued. Member Spalding agreed with Member Palmeri and asked why the Subway permit was revoked. She suggested that during the continuance period, a summary of types of uses and their required parking spaces be prepared. Mr. Sawrey-Kubicek said that zoning approval was issued in error. Member Callahan said the second finding could not be made in the affirmative. Member Botelho said he could not make the first finding in the affirmative since the subdivision of the building has caused the parking problem and was not related to the property. Member Palmeri made the motion to continue the matter to September 10, 2003 and Member Spalding seconded the motion. Motion carried 4/1. Member Botelho voted no since he could not make the findings in the affirmative and, as such, did not see a reason for a continuance.

**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.

**APPROVAL OF MINUTES:** June 25, July 9 and 23, 2003.

The Chair made the motion to approve the June 25 Minutes as submitted; a correction to July 9 Minutes, Page 7, Item 6, to reflect that motion passed 4/1; and July 23 Minutes as submitted. Member Palmeri abstained from voting on July 9 Minutes and Member Spalding abstained from voting on July 23 Minutes.

**STAFF COMMENTS & CORRESPONDENCE:** None.

**CHAIR'S REPORT:**

The Chair stated that Member Botelho has requested a workshop on Secondary Units. He (the Chair) thought it was clear that such units would only be allowed if they complied with all zoning requirements. Member Botelho said he was interested in the architectural review aspect and would like to meet with

County Counsel and Planning staff. He also suggested a workshop on temporary uses, such as catering trucks.

**BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS:**

Member Palmeri asked when Sante Fe was scheduled and the wordings for the notice. Mr. Sawrey-Kubicek replied that it was scheduled for the first hearing in September and would be noticed as 'Review of Conditions'.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at 8:50 p.m.

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

