

**MINUTES OF MEETING**  
**WEST COUNTY BOARD OF ZONING ADJUSTMENTS**  
**AUGUST 24, 2005**  
**APPROVED, SEPTEMBER 28, 2005**

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

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

**MEMBERS PRESENT:** Members Frank Peixoto, Chair; Ron Palmeri; Jewell Spalding and Lester Friedman.

**MEMBERS EXCUSED:** None.

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

There were approximately 18 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 made no 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. **BEHZAD BARFEEI, CONDITIONAL USE PERMIT, C-7992** – Application to allow operation of an auto sales and minor service facility in the ACBDSP (Ashland Cherryland Business District Specific Plan) District, located at 21265 and 21273 Mission Blvd, southwest side, approximately 150 feet northwest of Blossom Way, unincorporated Cherryland area of Alameda County, bearing Assessor's Parcel Number: 414-0076-028-00 (Continued from May 22, 2002; January 22, March 26, and November 5, 2003; April 14, September 8, November 10 2004 and March 9, 2005; to be continued without discussion to September 24, 2005).

Staff Member, Phil Sawrey-Kubicek gave the Board an update on the application. The recommendation is to continue the application to the April 12, 2006 Meeting. The zoning of the property may possibly be affected when the Eden Plan is updated. A draft of the Eden Plan is due out next week. The Board of Supervisors should vote on the Plan in March, 2006. Mr. Barfeei was present however no public testimony was taken.

Member Palmeri motion to accept the Consent Calendar as amended. Member Friedman seconded the

motion. Motion carried 3/0. Member Spalding was excused.

#### REGULAR CALENDAR

1. **VICTOR BECERRA, SITE DEVELOPMENT REVIEW, S-1991** - Petition to allow conversion of an existing two-car garage into a family room, and replace it with two uncovered legal on-site parking spaces, in a 5,254 square foot lot in the R-1 (Single-Family Residence) Zoning District, located at 17498 Via Alamos, northeast corner with Via Nube, unincorporated San Lorenzo area of Alameda County, bearing County Assessor's Parcel Number: 0412-0079-155-00. (Continued from August 10, 2005).

Staff recommended approval of the application based on revised plans that were just submitted by the applicant. Mr. Sawrey-Kubicek proposed changes to Condition #1 since the average height of the residential structure will be 24 feet and not exceed 25 feet. Condition #4 can now be eliminated. Member Friedman asked if the application meets Conditions A-G of the Alameda County Garage Conversion Ordinance. The staff planner, Rodrigo Orduna confirmed the conversion could meet all conditions. San Lorenzo Village Homes Association submitted a letter that states the project does not meet Condition A. Staff responded that although the applicant has the ability to add a non-conforming addition in the back of the property, the lot is a corner lot and does not provide sufficient compensating open space.

Mr. Orduna continued and said one scenario would be to put an addition upstairs. This would require redesign. A proposed second story addition would encroach five feet into the required yard and leave a 15 foot, open rear yard behind the garage. Although 95 square feet of required yard area would be taken up, compensating space of 116 square feet could be provided along the street side yard. Another scenario would be to retain the two story design and add a family room at the rear of the house. That proposal would cause the relocation of a stairway which results in the loss of floor area. The family room would only be 21 square feet in size since the street side yard would already be reduced by 95 square feet. If an alternative of a proposed second story were modified so as not to encroach into the rear yard the family room would be 116 square feet, minus whatever space would need to be deducted for the stairway. All of the other proposed options would substantially reduce the size of the family room. Mr. Orduna said the Board may want to consider if any of the aforementioned options truly allow sufficient space for a family room. Member Palmeri asked for more information regarding Tentative Finding F as to what type of alternative enclosed storage space would be provided. He wanted to verify that the placement of the alternative storage would meet zoning setbacks. Public testimony was opened.

Victor Becerra said he had lived in the home since 1987. It has two bedrooms and they need additional space. He believed the garage would be better utilized as family room as opposed to storage for two cars. Member Palmeri asked the applicant if he had discussed the placement of the proposed storage. He had not but was willing to work with staff for the appropriate placement.

Kathie Ready from the San Lorenzo Village Homes Association spoke to the Board about the application. Garage conversions have changed the feel of the neighborhood. She did not believe garage conversions should be allowed, past conversions as well as new ones. Because of conversions, homes become four bedroom homes with two bathrooms. With that number of rooms a family needs a garage for storage. Typically when the garage is taken away all of the things that were once in the space end up outside. Mr. Becerra can add to the home by obtaining variances. Public testimony was closed.

Member Palmeri thought the application should be continued until the location, and placement of the storage shed can be determined. At this juncture the application did not meet the Conditions of the Garage Conversion Ordinance. Staff said that modification of Condition #3 can specify exactly where to place the shed. It must be three feet from the dwelling and three feet from the property line without a firewall. Member Palmeri responded that it would be easier if the shed were constructed and placed prior to the conversion of the garage. He also questioned as to if Tentative Finding A was correct, there may be viable alternative options for development. Mr. Orduna said it may be helpful for the Board to first establish what is considered a “reasonable” amount of space for a functional family room. It can then be determined if viable options truly exist. Member Friedman asked staff if replacement parking would be covered. Staff responded that the Zoning Ordinance did not require replacement parking to be covered. Member Spalding said there appeared to be a conflict between storage and parking utilization. She recommended that the application be continued. The Board asked staff to review the following:

- Thoroughly examine if any alternate design options exist for the proposed family room.
- Determine exact placement and size of proposed replacement storage.
- Consider what options are consistent with the neighborhood

Member Palmeri motioned to continue the application to the September 28, 2005 Meeting. Member Spalding seconded the motion. Motion carried 4/0.

2. **BYRON F. WEST JUNIOR, CONDITIONAL USE PERMIT, C-8412** - Application to allow continued operation of an outdoor storage facility for trucks and construction equipment, in an M-1-B-40 (Light Industrial, 40,000 square feet, Minimum Building Site Area) District, located at 23953 Saklan Road, west side, approximately 645 north of West Street, unincorporated Cherryland area of Alameda County, designated Assessor’s Parcel Number: 0441-0090-007-04.

Staff recommended approval of the application. Public testimony was opened. The applicant was not present. No one appeared to offer testimony regarding the application. Public testimony was closed. Member Palmeri motioned to adopt staff’s Tentative Findings of approval subject to the Conditions in the staff report. Member Friedman seconded the motion. Motion carried 4/0.

3. **TOM HOULE, CONDITIONAL USE PERMIT, C-8416** – Application to allow continued operation of a church facility, in an R-1 (Single Family Residence) District, located at 100 Hacienda Avenue, south side, corner of Hathaway Avenue, unincorporated San Lorenzo area of Alameda County, designated Assessor’s Parcel Numbers: 0429-0001-132-00, 0429-0001-133-00 and 0429-0001-134-00.

Staff recommended approval of the application. Public testimony was opened. The applicant, Sherry Mattson introduced herself as the President of Christ Evangelical Lutheran Church. The church has been on the site since 1953. In the Year 2000 the church was granted approval for continued operation and an expansion that included the placement of some portable buildings. The buildings are used for a community resource program. Work to upgrade the grounds has been slow due to several factors.

She asked the Board for an extension to complete the work based on the following:

- The work is being done by church members which is a tradition of their organization. However the church population is getting smaller and aging therefore taking longer to complete.
- The cell site provider has been asked to remove an antenna so they can access vegetation surrounding the installation however they have been slow to respond.

Thus far members have begun to remove some of the dead vegetation and are currently obtaining bids to have the dead trees removed. They anticipate work will begin at the end of the month. Interior work is almost complete and when that is finished they will concentrate on the exterior. Ms. Mattson respectfully requested that the church not be required to provide a cash bond. The money required would put a financial strain on the small congregation and divert money that would be better spent to complete the work. Another congregant, Betty Moose testified that she supported the statements of the previous speaker. She also requested the Board grant the church more time to complete the work.

Kathie Ready from the San Lorenzo Village Homes Association read a letter that expressed some concerns. Although the Homes Association does not have jurisdiction over the church, residents that live in San Lorenzo must pass the church. The Association does not object to the continuation of the permit but would like to see more diligence on upkeep of the landscaping. They realize the congregation is small but perhaps a gardener is in order. The Association believes they can take the church's word that all of the work will be completed. Instead of a bond the money should be put into a new lawn. A component should also be built in that addresses on-going maintenance. The installation of a new lawn should be the first priority. Ms. Mattson responded that the lawn was currently dormant and turns a lush green during the rainy season. Public testimony was closed.

The Chair suggested that drought resistant plants might be used instead of grass to remedy the landscaping issues. Member Friedman said Alameda County Code Enforcement could do follow up site visits to ensure the site was being maintained. He was concerned that a dormant lawn for half of the year was not an acceptable standard. Member Spalding said many projects had been under taken within the County that did not require acquisition of a bond. Some projects that had posted bonds were not completed but there was no follow up action taken by the County. The bond requirement created a financial hardship and did nothing to address the maintenance issue. Money should be spent on vegetation and volunteers could be used to install it. Condition #4 could be modified to include:

- A maintenance schedule for existing vegetation
- A schedule for removal of all dead vegetation
- A schedule as to when new plantings and vegetation will be installed
- The method by which the property will be maintained

Member Palmeri made a point that other telecommunication applications that had come before the Board were required to maintain landscaping around their installations. At the time of renewal, telecommunications sites on the property should be required to participate in maintenance and upkeep.

Member Palmeri said he could make Tentative Findings and motioned to approve the application for a period of five years. The Alameda County Building Department shall oversee the installation of modular buildings on the site. A landscaping plan for the areas surrounding the modular buildings must be

submitted within 120 days to be approved by the Planning Director. Approval of the landscaping Plan is a Condition of issuance of Certificate of Occupancy for modular buildings at the site. Pre Hearing Recommendation #3 shall be modified to reflect that all dead trees shall be removed from the property within 120 days. All perimeter landscaping shall be maintained. All lawn areas must be completely restored within 120 days or submit a landscaping plan to be approved by the Planning Director to that specifies alternative vegetation. This permit can be reviewed by the West County Board of Zoning Adjustments for consideration of, adding new conditions and/or modifications of existing conditions. Member Spalding seconded the motion. Motion carried 4/0.

4. **MARCO A. NAVA, VARIANCE, V-11843** – Application to: 1) allow the conversion of the garage from non-habitable space into habitable space; and 2) a five foot side yard setback where nine feet is required on a 0.27 acre site, in an R-1 (Single Family Residence) District, located at 21150 Hathaway Avenue, east side, approximately 155 feet north of Mero Street, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0429-0041-101-00. (Continued from June 22, July 13 and August 10, 2005).

Staff reminded the Board the application had come before them six weeks prior. The recommendation was denial. Old plans discovered in the Building Department appear to show the garage as a separate, detached structure. When actually built it was attached to the house. The Building record, however is not complete, therefore it is inconclusive. As currently built the structure does not meet zoning requirements for conversion of the garage to habitable space. Public testimony was opened.

The applicant Mr. Nava told the Board that he hired an engineer and architect to draw up plans based upon what he was told by the Planning Department. He had spent \$18,000.00 dollars on the project, and did want to throw money away. The area would be utilized as a play room for his children and family area, not for habitation. Staff interjected that the original application had been on hold since February 2004 awaiting consideration of the Garage Conversion Ordinance. The applicant could add to the rear of the home which would not require a variance. Member Spalding asked if a second story addition was an option as well. Staff confirmed that it was possible.

Member Friedman motioned to uphold the staff finding of denial. Member Palmeri seconded the motion. Motion carried 4/0.

5. **FENG M. KUAN, VARIANCE, V-11933** – Application to subdivide one site into three parcels, containing approximately 0.57 acre, and so as to provide a three foot, six inch side yard where ten feet, zero inches is required, and a sixteen foot, six inch wide driveway where twenty feet, zero inches is required, in an R-1-CSU-RV (Single Family Residence with Conditional Secondary Unit and Recreational Vehicle) District, located at 19225 Lake Chabot Road, west side, approximately 140 feet south of the end of Christensen Lane, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084B-0515-002-00.

Variance V-11933 is in conjunction with Parcel Map, PM-8595. The staff recommendation is denial of the request for a 3 foot, six inch side yard where 10 feet is required with the proposed subdivision of the parcel into three lots. However approval is recommended for the request of a 16 foot, six inch wide driveway where 20 feet is required. Approval is recommended for a variance for a 3 foot, six inch side yard where 5 feet is required, in the case of subdivision of the parcel into two lots, subject to conditions. Three foot side yards would be consistent with a two lot subdivision. CVMAC preferred the same option.

Staff Member Palmeri asked for clarification as to:

- Is the application before the Board for a two or three lot sub-division in conjunction with the variances
- Is the application subject to CEQA consideration since it is a proposed subdivision not a lot line adjustment

Staff confirmed the application was in conjunction with a three lot subdivision, however if the application were denied, the matter would probably come back before them in a modified form. Member Spalding asked staff if the request for a historical review was submitted prior to the barn being demolished. Staff Member Andy Young responded that the report was received after demolition. Other agencies like San Francisco Planning have been known to fine applicants that destroy historic structures. In this case the report determined that the barn and property were not identified as having distinctive characteristics or important persons or events associated with it. In regard to CEQA his interpretation was that the application should not be exempt. The application was not standard and also required variances. Not requiring a CEQA Review in his opinion may set the County on a slippery slope. Another interdepartmental view was that the variance applications in and of themselves, are exempt from CEQA review. The Planning Director could make the final determination on exemption of the variances and Parcel Map when considering the Parcel Map application. Member Friedman asked if permits had been obtained prior to removing the mature trees on the property or if Alameda County Code Enforcement had been to the site.

Staff said in general permits to cut trees are not required. If permits are necessary they are obtained through Alameda County Public Works Department. Mr. Young added that if there was an abundance of trees present, staff will ask the applicant to refrain from cutting until a determination can be made. The Chair reminded the Board that the variance consideration was the issue before them at the present time. Member Spalding commented that all of the related issues should be discussed throughout the process to consider CEQA arguments. Public testimony was opened.

The applicant Mr. Kuan was present. Mr. Kuan's son spoke on his behalf. Trees that were overhanging from the neighboring property were trimmed. The house used to be the worst on the block. His family redesigned and improved the parcel. It was his belief the lot would look better if it were subdivided into three lots. The barn was torn down because it had become an encampment for homeless people. Member Spalding asked Mr. Kuan's son if he would consider a two lot split. He said he preferred a three lot split. Ron Gerke a neighbor that lives at 19281 Lake Chabot Road testified before the Board. Mr. Gerke had lived in the area for 35 years. He used to hold barn dances in the old barn and was familiar with its condition. The barn had a dirt floor and was in disrepair. It had become a hazard and he was glad to see it go. The trees in the area are Scrub Oak. They grow wild and quickly get out of control if not cut. They are also susceptible to moths. The oldest tree is probably about 14 years old. He closed and said he did not feel the barn or the cut trees were of any concern. Public testimony was closed.

Member Palmeri motioned to adopt staff's Tentative Findings for approval of a 16 foot, six inch wide driveway where 20 feet is required and a 3 foot, six inch side yard where 5 feet is required for subdivision into two lots maximum. Member Palmeri did not feel a three lot split of the parcel was reasonable. Member Spalding asked a question regarding the motion as to if CEQA would apply, since the lot would be subdivided. If CEQA were applied how might that affect or activate ramifications in regard to the barn. Member Palmeri pointed out that the barn had already been destroyed.

Staff informed the Board that a subdivision map would be subject to a CEQA process. Action cannot be taken on subdivision until the variance portion of the application is approved. Member Palmeri withdrew his motion. The Chair suggested the motion be exactly as stated in the Pre-Hearing Recommendation, #1.

Member Friedman motioned to approve a 16 foot, six inch wide driveway where 20 feet is required and, subject to approval by the Planning Director of a two lot subdivision only, a 3 foot, six inch side yard where 5 feet is required, subject to plans marked "Alternative B" on file with the Planning Department. Member Palmeri seconded the motion. Motion carried 4/0.

6. **COURT & GILL BOIM, VARIANCE, V-11938** – Application to construct an attached addition so as to result in a 28 foot – six inch high dwelling where 25 feet is the maximum height, in an R-1-B-E-CSU-RV (Single Family Residence, 10,000 square foot Minimum Building Site Area, Conditional Secondary Unit, Recreational Vehicle) District, located at 18036 Jaymark Court, east side, approximately 80 feet south of Reamer Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084D-1158-003-04.

The staff recommendation was approval of the application. The Board had no questions. Public testimony was opened. Member Spalding asked the applicant if their preference was Exhibit "A" or Exhibit "B" referenced in the staff report. Mr. Boim responded that his English was not proficient so a representative would speak on his behalf. Mr. Boim's representative said his client preferred, Exhibit "A" which has a roof pitch of 6:12. The alternate plan that proposes a 4:12 roof pitch has more of a flat appearance and would be less harmonious with the redesigned look of the home. Public testimony was closed. Member Spalding recommended that standard Land Development requirement for frontage dedication be omitted.

Member Palmeri motioned to approve the application with the modification to Condition #2. Public Works, Land Development Services shall be removed. Member Friedman seconded the motion. Motion carried 4/0.

7. **LAMB SURVEYING INC., VARIANCE, V-11941** – Application to:  
1) create a three lot subdivision providing a 13 foot driveway where 20 feet is required; and 2) a required side yard of one foot where five feet is the minimum required, in an R-S-SU (Suburban Residence, Secondary Unit, 5,000 square foot Minimum Building Site Area) District, located at 325 Cherry Way, south side, approximately 124 feet east of Saint George Street, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0429-0014-057-00.

Staff announced that the applicant requested a continuance to the September 14, 2005 Meeting. Member Palmeri motioned to continue the Application to September 14, 2005. Member Friedman seconded the motion. Motion carried 3/0. Member Spalding was excused.

8. **SCOTT LEE, VARIANCE, V-11946** – Application to allow expansion of a nonconforming use (reduced parking spaces) by construction of an attached addition and a detached accessory structure in an R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 21522 Lake Chabot Road, east side, approximately 25 feet south of Meg Court, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 0415-0060-083-00.

Staff recommended a continuance of the Application so it could be heard by CVMAC. Member Palmeri motioned to continue the application to the September 14, 2005 Meeting. Member Friedman seconded the motion. Motion carried 3/0. Member Spalding was excused.

**APPROVAL OF MINUTES:** Member Palmeri motioned to continue approval of the Minutes of August 10, to the September 14, 2005 Meeting. Member Friedman seconded the motion. Motion carried 4/0.

**STAFF COMMENTS & CORRESPONDENCE:**

Staff informed the Board that the process for the CVMAC to review all variance applications for Castro Valley was now in place. Staff reports will be sent for their review. All applications will be put on the Consent Calendar. If there is an application they wish to discuss further, the item can be removed from the Consent Calendar if necessary.

Mr. Sawrey-Kubicek told the Board a large number of applications would be coming before them in the near future and they may consider having an additional meeting. After discussion the Board identified September 21, 2005 as an open date for an evening meeting if one is required.

**CHAIR'S REPORT:**

No Chair's Report was submitted.

**BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:**

The Chair asked staff if drafting a letter signed by Buzz or Chris would be helpful to facilitate the appointment process of the new Board Member. The Board's concern was that the continued vacancy will result in more cancelled meetings, and cause further imposition to current Board Members. Member Palmeri said he had to request a continuance in Court in order to attend a hearing. Without his presence there would not have been a quorum. His client is 94 years old and he wanted to prevent predicaments like this in the future.

Member Friedman announced he would not be present at the September 14, 2005 Meeting.

**ADJOURNMENT:**

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

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