

**MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
OCTOBER 19, 2005
(APPROVED NOVEMBER 9, 2005)**

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

REGULAR MEETING: 6:00 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; Yvonne Bea Grundy, Recording Secretary

There were approximately 16 people in the audience.

CALL TO ORDER:

The meeting was called to order by the Chair at 6:00 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. **NWAKAMMA OKORO, CONDITIONAL USE PERMIT, C-8435** – Application to allow continued operation of an auto sales lot in a C-1 (Retail Business) District, located at 20979 Foothill Boulevard, southwest side, approximately 300 feet northwest of Ash Street, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 0414-0051-035-00. (To be continued without discussion to November 9, 2005).

2. **LYN LEE, VARIANCE, V-11967** – Application to approve as a building site a parcel reduced in median lot width from 300 feet to 110 feet and reduced in area from five acres to one acre, in an R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 5 acres, Minimum Building Site Area) District, located on Arbutus Court, north side, approximately 375 feet west of Quercus Court, Unincorporated Fairview area of Alameda County, designated Assessor's Parcel Number: 0425-0500-023-00.

WITHDRAWN

Member Friedman motioned to accept the Consent Calendar as submitted. Member Palmeri seconded the

motion. Motion carried 4/0.

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, on 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, August 24, September 28 and October 12, 2005).

The application had been discussed before the Board on August 24, 2005. Staff suggested the Board may want to determine a standard for an acceptable amount of conforming building space. This guideline could be used when considering Condition A of the Garage Conversion Ordinance. The applicant has submitted modified plans which lower the height of the proposed second story addition. Staff recommended approval of the application. Member Palmeri commented that the community and the Board of Supervisors had spent one year considering and developing a Garage Conversion Ordinance. The staff recommendation of approval, requests that the BZA deviate from the Ordinance. Staff responded that the since adoption there have been implementation issues. Deviation from black and white interpretation may be necessary. The Board had the following questions:

- Can the application be considered as a variance as opposed to a site development review
- Can the area of the proposed addition be reduced
- Does the FAA still require a Notice of Proposed Construction or Alteration
- Is the San Lorenzo Village Homes Association recommendation of expansion to the east of the existing home viable

Staff reminded the Board that since implementation of the Ordinance, applications are now processed as site development reviews. The layout of the design could be modified however that would affect where the two parking spaces are located. The new reduced height will not require notice to the FAA. The staff report is accurate and outlines in detail proposed alternatives. If a family room were added to the rear of the home one of two situations would occur. The stairs leading to the proposed second story would have to be relocated resulting in a loss of floor area, since compensating open space along the side yard would already be reduced by 95 square feet. This would make the family room only 21 square feet. If the second story were modified not to encroach into the rear yard, the family room would be 116 square feet, minus whatever subtraction was necessary to relocate the stairway. In comparison the current design would allow a 351 square foot family room. Although conforming building space is available it is substantially smaller. Member Friedman and the Chair had the following concerns:

- A precedent could be set that encourages garage conversions
- The design is not in line with surrounding homes

Public testimony was opened.

Mr. Ygnacio Becerra, the son of the applicant spoke on his behalf. Three generations have lived in home for 25 years. The family believes that the application meets Condition A of the Garage Conversion

Ordinance. No conforming building space is available. All other Ordinance Conditions can be met as well. Neighbors do not object to the conversion. A petition with signatures of people that are in favor has been submitted with the application. Although the San Lorenzo Village Homes Association objects the family has worked with the Planning Department throughout the process. Mr. Becerra requested the application move forward. If the Board believed a single story home was more similar to existing homes in the neighborhood, he would be willing to limit the design to one story. The Chair asked Mr. Becerra if the family room would be eliminated if the conversion of the garage were not allowed. Mr. Becerra confirmed that it would. Member Friedman was in agreement with Member Spalding. The second story was not an issue but the garage conversion was. Member Friedman asked if extending the current family room into a portion of the garage was an option. Mr. Victor Becerra asked if using a portion of the garage would still be considered a garage conversion. Member Spalding said that was a question the Board must discuss. Public testimony was closed.

The Board discussed the following points:

- An applicant could decide they want to create a specific amount of living space. Without a standard it can be arbitrary as to what constitutes “other conforming building space”
- Variances have been granted in the area for corner lots. Could this be considered to be consistent with those variances

County Counsel said each property should be considered individually. Member Spalding commented that this property could be unique in that conforming building space may be limited due to its close proximity to the airport and the need to comply with FAA requirement. The Board asked what percentage of San Lorenzo was affected by FAA regulations. Staff did not know for sure however regulations are restricted to areas near the end of the runway. The Chair said the layout of the existing home may play a role in determining what is considered conforming. For example you would not want to walk through the bathroom to get to the kitchen. Member Palmeri said the issue is conceptual. There are family rooms that exist which are 8 feet wide. The Board must consider what would be appropriate in the long term. Perhaps historical allowances can be used as a guide line. He asked County Counsel if the Board of Zoning Adjustments had the ability to set threshold standards. County Counsel, Brian Washington confirmed they did. Member Palmeri responded that a discussion would be scheduled for a future meeting.

Member Spalding said she did not think Condition #3 was appropriate, and Condition #5 may need modification. Regarding, Condition #3 if an applicant appealed a decision by the Board of Zoning Adjustments the indemnity agreement could be an inherent conflict of interest. She suggested the Condition be deleted. County Counsel said that as a matter policy that the Board of Supervisors can hear, and make a decision regarding an appeal. It is legally appropriate. Member Spalding thought there may be a more appropriate vehicle to achieve the same goals. Member Palmeri motioned to approve the application with the preface that the Board had not yet set permanent standards.

Member Palmeri motioned to approve the application subject to the addition of following condition: Related to this specific application, the total proposed addition shall not exceed 50% of the foot print of the existing home. Staff Pre Hearing Recommendations shall be adopted as Conditions of Approval. A condition shall be added requiring the installation of a permanent fence and gate to screen the two vehicles parked in the side yard. The fence shall not be less than 5 feet in height. Member Spalding asked for a clarification to the motion.

The Chair asked staff if this decision would satisfy Condition #A of the Garage Conversion Ordinance. Staff responded this approval would relate to this specific application only. Member Spalding seconded

the motion of approval. Member Friedman was not in favor of approval of the application. Motion carried 3/1.

2. **KMJ ASSOCIATES, CONDITIONAL USE PERMIT, C-8415** – Application to allow continued operation of a 14 bed residential care facility in an R-S-D-3 (Suburban Residence, 1,500 square feet per Dwelling Unit) District, located at 1476 – 164th Avenue, southwest side, approximately 700 feet northeast of East 14th Street, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 0080-0071-033-02.

Staff recommended approval of the application. Board Member Palmeri asked if Variance, V-11026 approved in 1998 was valid only if, Conditional Use Permit, C-7186 is in effect. County Counsel responded that variances are permanent. If the Board ever revoked C-7186, then a question could be raised as to the existence of V-11026. Staff clarified that V-11026 was for the reduction of parking spaces. Public testimony was opened.

Kati Knox told the Board she had owned the senior facility for ten years. There had been no problems. Public testimony was closed.

Member Palmeri motioned to adopt the staff Tentative Findings subject to correction of Condition #9. Conditional Use Permit, C-8415 shall expire in 5 years. Member Friedman seconded the motion. Motion carried 4/0.

3. **AWRPS INCORPORATED, CONDITIONAL USE PERMIT, C-8421**
-Application to allow continued operation of an outdoor storage yard with rental and storage of containers in a P-D (PD-1780) Planned Development, 1780th Zoning Unit, located at 23422 Clawiter Road, west side corner, south east of Middle Lane, unincorporated Eden area of Alameda County, designated Assessor's Parcel Numbers: 0441-0090-001-02, 0441-0090-003-02, 0441-0090-002-00 and 0441-0090-004-00.

Staff reviewed the application and recommended approval. Board questions were as follows:

- Did the City of Hayward submit a referral response
- Would the permit expire if the property were annexed to the City of Hayward
- Is there a fence currently surrounding the use, per a condition of a past variance

Staff said Hayward has no objections to the application. If the Board granted approval, expiration could be tied into annexation by the City of Hayward. The property does have a fence around it. Public testimony was opened.

Mr. Robert Skinner, the owner and principal operator of the storage yard was present. He purchased the business in 1999. He requested that the permit not expire in conjunction with annexation since it is unknown when annexation will occur. Public testimony was closed.

Board Members thought Condition #7, stating the applicant shall not oppose annexation to the City of Hayward was unnecessary. The permit can be set to expire one year after annexation occurs. The Chair responded to the comment submitted by Alameda County, Clean Water. He did not believe there was a large volume of readily available water. The applicant should continue the current practice of

spreading the oil based ground cover.

Member Friedman motioned to accept staff's Tentative Findings and adopt Pre Hearing Recommendations with the following modifications: Condition #7 shall be deleted. The permit shall expire in three years or one year after annexation by the City of Hayward whichever occurs first. Member Palmeri seconded the motion. Motion carried 4/0.

4. **JOHN MASCULINE, CONDITIONAL USE PERMIT, C-8426-** Application to allow continued operation of an indoor recreational facility (Martial Arts Studio, Karate, Kung Fu, Judo) in a C-2 (General Commercial) District, located at 17144 East 14th Street, northeast side, approximately 160 feet southeast of 171st Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080A-0109-010-00.

Staff recommended approval of the continued operation the indoor recreation facility. Staff clarified that the applicant assumed the lease in the Year 2000. Prior to that, another person held the lease. The Chair asked how many kids attended the school. Staff confirmed 40 students. Public testimony was opened.

Mr. Masculine thanked the Board for consideration of his application. A Martial Arts School has been located at the site 24 years. The School gives children in the neighborhood a place to go, discipline and training. The School also teaches values like self respect and honor. Based on advice from Staff Planner, Brett Lucas Mr. Masculine requested that the permit expiration be extended from 5 years 7 years. Member Friedman asked if there had been any issues in the surrounding area with parking or the homeless. Mr. Masculine said he had talked with Cal Trans the Agency in charge of parking for the area. They have no issues. School operation does not conflict because the hours are different from the surrounding businesses. Years ago there had been some camping near the property. Since improved lighting was installed, there are no longer any problems. Public testimony was closed.

Member Spalding commented that the signage around the building, stating the values the school strives to impart had a positive impact on the surrounding area. Member Spalding motioned to approve the application for a period of five years with the modification of Pre-Hearing Recommendation #2. Land Development Services shall be deleted. Member Palmeri seconded the motion. Motion carried 4/0.

5. **HAYWARD FELLOWSHIP, CONDITIONAL USE PERMIT, C-8436-** Application to allow continued operation of a community clubhouse (meeting hall for alcoholics anonymous) in an ACBD Specific Plan – TC (Ashland and Cherryland Business Specific Districts Plan – Transit Corridor) Districts located at 16250 East 14th Street, northeast side, approximately 260 feet northwest of 163rd Avenue, unincorporated San Leandro area of Alameda County, designated Assessor's Parcel Number: 0080-0063-035-02.

Staff reviewed the application for continued operation of a community club house. The recommendation was approval. The following correction was given to the Board. Pre-Hearing Recommendation, #7 should reflect expiration in 5 years on October 19, 2010. Redevelopment was in agreement with renewal. Some community members thought the site might be better used as a retail site however at this time no other perspective tenants have come forward. Board questions were as follows:

- Is drop-in counseling available at the site 24 hours a day
- Have there been any noise complaints
- Is loitering an issue

- What enforcement mechanism is in place to verify compliance with club house hours

Staff told the Board the clubhouse was not open 24 hours a day. Clients can call to arrange service outside standard hours. Noise complaints had been lodged in the past however none have been registered for some time. People do smoke outside of the building. Conditions can restrict outside access after 9:00 p.m. Member Palmeri added that if conditioned properly noise should not be an issue therefore eliminating enforcement problems. All Board Members agreed that it did not appear that the Clubhouse would have any additional impact if Member access were available round the clock. Public testimony was opened.

Applicant, Mr. Jim Mathews thanked the Board for their time. The clubhouse has been open for 20 years. He has been a member of the Hayward Fellowship since 1983, and is the current Chairperson. The hours are from 6:00 a.m. to 10:30 p.m. During the holidays they would like to extend the hours to 2:00 a.m. on Friday and Saturday. Many people find this to be a stressful time of year and need additional support. The clubhouse also serves people who are directed from the court system. To mitigate issues with neighbors there is a designated smoking area. The back door is kept closed after 10:30 p.m. Another member of the Fellowship, Mr. Tom Benny testified that tall cypress trees line the back area. This is an additional buffer which screens visibility from neighboring properties. The Board asked if the clubhouse planned to return to a 24 hour schedule in the future. Mr. Mathews said currently they did not have the staffing. One concern that he did have was regarding a recent break-in at the clubhouse. Apparently the perpetrator thought they could access the marijuana dispensary next door through the clubhouse. This is definitely not the case. Mr. Mathews was not notified that a dispensary was to be located next to the clubhouse. He does not feel it is an appropriate choice. There are three armed guards patrolling the dispensary facility which is unsettling for clubhouse members. He asked the Board if there was an appropriate forum was to voice his concerns. County Counsel said marijuana dispensaries are the currently per view of the Board of Supervisor's. Member Palmeri clarified that the Board of Zoning Adjustments can regulate Alcohol Policy. He suggested that Members of the Fellowship speak to the Board of Supervisor's to voice their concerns. Public testimony was closed.

Member Palmeri motioned to adopt staff Tentative Findings with the following modifications: Conditional Use Permit, C-8436 shall expire, 11-19-2010. Condition #2 and #3 shall reflect the following Hours of Operation. Monday through Thursday 6:00 a.m. to 10:30 p.m.; Friday and Saturday 6:00 a.m. to Midnight. Rear doors of the facility will remain closed, except as emergency fire exists after 9:00 p.m. There shall be no loitering by guests or members. Member Spalding asked for a modification to the motion. Thirty day prior approval must be obtained from the Planning Department for holiday or special events. Member Friedman seconded the motion. Motion carried 4/0.

6. **MYRNA HOAG, VARIANCE, V-11908** - Application to retain an expansion of a non-conforming use (tow yard in a residential area) and retention of an eight foot chain link fence in a R-S-D-15 (Suburban Residence with 1,500 square feet Minimum Building Site Area per Dwelling Unit) District, located at 16037 to 16097 Mateo Street, southwest side, approximately 311 feet northwest of 162nd Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Numbers: 0080-0057-030-00, 0080-0057-036-00 and 0080-0057-037-02. (Continued from May 11, June 22 and September 14, 2005).

Assistant Planning Director, Steve Buckley described the application. The applicant of record is Myrna Hoag is the trustee of the property, representing the owners and operators. The variance request is to retain expansion of a non-conforming use (an existing automobile tow yard).

This application previously came before the Board of Zoning Adjustments on April 13, 2005. Several questions were raised at that time regarding the history of the property and the uses. The hearing has been continued to this hearing in order for staff and the applicant to provide answers. The property is located at 16037-16097 Mateo Street. This includes three parcels. A small portion at the rear of one parcel is currently leased to a telecom provider. The BZA previously indicated that the 8 foot fence was an acceptable barrier between the church and tow yard property.

According to photographs and documentation, including past variance and site development review applications the two side parcels were not used until after implementation of the Zoning Ordinance. Only the middle parcel is legal non-conforming. Staff recommendation was not to approve the application in part because findings cannot be made under the variance section of the Ordinance Code. Another issue is a determination as to if a variance application is the appropriate way to allow use expansion as opposed to strictly applying variances to building or development regulations. County Counsel and the applicant's attorney were present to answer questions. Member Spalding asked staff what year the Zoning Ordinance was adopted. Staff confirmed 1957. Public testimony was opened.

Ms. Rena Rickles, the attorney representing Hank's Towing spoke on behalf of the applicant. Hank's Towing started in the 1940's. The business is an institution and continues to be run by the same family to this day. The business employs seven people. They are paid a living wage and dependant upon the continued operation of the business. Katrina Moretti of Hank's Tow is an active member of the Ashland Advisory Committee.

Ms. Rickles stated there were two issues regarding the application, the variance and the fence. Hank's Tow provides an important service to the local community, the Highway Patrol and the Alameda County Sheriff's Department. A letter from the Sheriff's Department has been submitted commenting on the efficiency, professionalism and friendliness of the owners. It has been agreed that the fence is appropriate but the applicant would like Condition #3 removed if the variance is not granted. The fence was paid for jointly by the church as co-owners and they would like to retain the fence.

Regarding the variance request for the two addresses of 16097 and 16037 Mateo Street, Ms. Rickles contended that the use at 16097 Mateo Street can be established. She presented documentation from a 1952 photograph. Trees are present in the photograph along the property line. Vehicles from the tow business are parked underneath the trees although obscured due to foliage. Another piece of documentation submitted by a member of the neighboring church in 1972 states the parcel has been used continuously for the tow business. This contradicts information in the staff report. An additional photo from 1960 shows vehicles from 1957 and 1960. The minister of the church is currently trying to obtain additional affidavits from older church members to verify the history of the use. Ms. Rickles believed, based on over whelming evidence the parcel has been used for the tow business since the 1950's. Regarding 16035 Mateo Street, Ms. Rickles submitted that tow business use began much later. Some time in the 1990's.

Ms. Rickles asked County Counsel for clarification regarding a document that he prepared, regarding County Ordinance 17.52.060 and/or documents that reference California State Law. Ms. Rickles wanted to know if a nonconforming use had been granted a variance, would the use then continue forward by means of a variance. County Counsel stated that he did not believe he was not the author of an e-mail or other document that spoke to this issue. As a follow up to questions asked by Member Palmeri, he did make comments to the effect that in light of the facts, it would be an incredible challenge to make finding for a variance in this situation where a use was expanded when not allowed by the zoning ordinance. Other suggestions that were discussed included possible re-zoning. However this was not a suggestion as to how the applicant should proceed, as the use would still have certain issues in this setting.

Ms. Rickles told the Board that she had met with Steve Buckley to discuss possible alternatives. He was not exactly sanguine about the possibility of a re-zoning being granted by the Board. Ms. Rickles said that it had been frustrating for the applicant, now one year into the application process.

She continued. If the Board were inclined to grant a variance, it should be considered for the third parcel. The business is unique in that it began long before the Ashland Community was established. Another application fee of \$4,000 to rezoning would be a hardship. The tow business operates on a shoestring. Ms. Moretti must also work a second job. Parcels surrounding the business are large. The applicant would be inclined to add additional landscaping, etc. to mask the business from the neighbors. A petition in support of the tow yard continuing has also been submitted, collected by the operator who obtained signatures from the neighbors. The alleged complaints were initiated by a family member in 1997 as a result of a family feud. This family member has also halted the current clean up of the property. The attorney representing the brother involved, states that items being discarded may belong to his client. Thus far five dumpsters each weighing 5 tons have been emptied. Two dumpsters full of materials have been sold. The second attorney for the Hoag Family is working to resolve this issue. Notification of materials that remain has been sent to the appropriate parties. After a period of thirty days the debris will be discarded or sold with proceeds distributed accordingly. The two large pieces of machinery on the property will be stored inside of a garage. As to vehicles stored long term by the Highway Patrol, a resolution is in the works at the local level to expedite the process. If this is not successful the Hoag Family will seek resolution at a Legislative level.

Member Spalding asked if there was ground water contamination at the site. Ms. Rickles said that Bay Area Water Quality had inspected the property. The recommendation was that all vehicles have a drip pan installed underneath them. This has already taken place. Member Spalding asked for written verification. Ms. Rickles told the Board she discussed the issue with Staff Planner, Deric Licko. No written documentation was requested.

Member Spalding then asked Ms. Rickles to confirm addresses for each of the parcels. Ms. Rickles said she was not familiar with reading the staff report format for the parcels numbers. Parcel, APN: 080-0057-036-00 is the parcel both the applicant and planning staff agree was used for the tow business prior to the institution of Zoning.

- APN: 080-0057-0376-02 she believes can be established by evidence, that it is non-conforming in terms of use.
- 16035 Mateo Street, APN: 080-0057-030-00, the applicant submits was used for the tow business after the Zoning Ordinance was established in the mid 1990's.

Member Spalding asked if the variance application for APN: 080-057-030-00 was being withdrawn. Ms. Rickles said no because this is the parcel for which the applicant would like the variance since it currently does not have non-conforming status. Member Spalding asked if this was because the applicants believe the other two parcels have an established non-conforming use, either prior to zoning or by proof. Ms. Rickles said essentially, yes but if the BZA will not accept that premise, the only option for the applicant to continue to operate was the variance application process. Member Spalding asked Ms. Rickles if the expansion related to the number of vehicles as well as the volume of business. The Chair interjected that he did not believe the exact number of vehicles was relevant. Member Spalding responded that it may be part of the answer. Speaker cards were submitted by Mryna Hoag, Katrina Moretti and Alfred Lara. All persons said they would testify if the Board had questions. The Board had none. Public testimony was closed.

Member Palmeri reviewed the original aerial photographs taken at the property. His comments were the following: In the 1940s when the business was first established, all uses were pretty much allowed in the unincorporated areas. Ashland was rural for the most part. In the past 15 years there has been a concerted community effort to improve the unincorporated areas, including recent redevelopment projects in conjunction with County Supervisors. Similar issues exist in other communities, like airports now surrounded by homes or wrecking yards in San Jose, now annexed and inside City limits. Some businesses have not kept pace with the County intention to improve the area. He supported the effort Hank's tow has put forth to clean up but the use no longer fits with the area. If the business wants to expand they should do so outside of a zone that no longer supports that type of use. Most jurisdictions are in favor of phasing out businesses of non-conforming use. This can be done by means of no expansion, the phasing out over time, buying out property owners or preventing re-building after a fire. Currently, Alameda County does not have a vehicle for this purpose. The applicant does have an option. Continue to conduct business on the single parcel that has established non conforming status, until such time Alameda County makes any changes or phases out such uses. Letters submitted from 1972 do not depict the same use. The site is currently filled with vehicles, due in part to Sheriff's requirements, but it should not continue into perpetuity. In regard to the photograph of Katrina Moretti, occasional use then, does not establish that the use is the same type as the current variance request. He was not convinced the expanded use was legal non-conforming. Based on the Zoning Ordinance and comments made by County Counsel, Member Palmeri did not believe the Board should allow expansion of a non-conforming use. Additional comments are as follows:

- Tentative Finding #1. There are no special circumstances present. Other parcels zoned residential in the area are not being considered for expansion or for this type of use. It has been established that expansion occurred after Zoning was instituted. There also is no established claim of legal non-conformity for parcels other than the original parcel. Preponderance of evidence shows there has been an expansion of an illegal use.
- Under Tentative Finding #2, granting the variance would be a granting a special privilege.
- Under Tentative Finding #3, finding in the affirmative would be a detriment. Member Palmeri was concerned that the lack of access for emergency vehicles along the narrow street due to disabled vehicles was potentially dangerous.
- The use is no longer permitted in the Zoning Ordinance for this area.
- There are no serious concerns with the fence. This aspect can be considered a special circumstance since the church is half owner. The church may apply for a variance to allow the fence to remain.

Member Palmeri motioned to adopt staff Pre Hearing Recommendation of denial. The Chair asked for a clarification to the motion. Pre Hearing Recommendation, #2 shall be modified to allow the church on the neighboring property to apply for a variance to retain the fence. Member Palmeri accepted the modification.

Member Spalding seconded the motion. She stated that the applicants are good people but had yet to submit all of the materials requested by the Board. The issue was originally brought forward as a Code Enforcement issue and the property has not been properly maintained. Although the business has a long history and a need exists for vehicle storage, the volume and operation of the business has become hazardous.

Member Friedman did not believe the applicant demonstrated that the Board could make Tentative Findings #1, #2 or #3, in agreement with his colleagues. Motion carried 4/0.

APPROVAL OF MINUTES: Member Palmeri motioned to postpone approval of the Minutes of September 14, 2005 to the October 26, 2005 Meeting. Member Friedman seconded the motion. Motion carried 4/0.

STAFF COMMENTS & CORRESPONDENCE: No staff comments were submitted.

CHAIR'S REPORT: No Chair's Report was submitted.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS: The Board had no announcements or comments.

ADJOURNMENT:

There being no further business, the hearing adjourned at 9:00 p.m.

CHRIS BAZAR - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS