

**MINUTES OF MEETING  
WEST COUNTY BOARD OF ZONING ADJUSTMENTS  
DECEMBER 14, 2005  
APPROVED 1/11/2006**

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 9 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. **GUADALUPE LOZA/FRED FULCHER, CONDITIONAL USE PERMIT, C-8271**– Application to allow continued operation of a drive-in business (catering truck), in a PD-ZU-1487 (Planned Development, 1487<sup>th</sup> Zoning Unit) District, located at 691 West A Street, north side, corner, northwest of Royal Avenue, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel 0432-0016-035-00. (Continued from February 11, April 14, April 28, May 26, July 14, September 8, October 13, 2004, March 23, June 22 and October 12, 2005; to be continued without discussion to March 22, 2006).

Member Friedman asked staff when the revised Catering Truck Ordinance Review would be complete. Staff said the proposed policy would be review by the Board of Supervisor's in March 2006.

Member Palmeri motioned to accept the Consent Calendar as submitted. Member Friedman seconded the motion. Motion carried 3/0. Member Spalding was not present for the vote.

**REGULAR CALENDAR**

1. **RICHARD CHEUNG, CONDITIONAL USE PERMIT, C-8457** – Application to allow continued operation of a church in an R-1 (Single Family Residence) District, located at 19741 Hathaway Avenue, southwest side, approximately 900 feet southeast of Hacienda Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 429-0001-131-00.

Staff reviewed the application for continued operation of a church facility. The recommendation was approval. Public testimony was opened. The applicant, Richard Cheung present. The Board had no questions. Public testimony was closed.

Member Palmeri motioned to approve the application with a modification of the permit expiration date. The Conditional Use Permit shall expire in five years, December 14, 2010. Member Friedman seconded the motion. Motion carried 3/0. Member Spalding was not present for the vote.

2. **JOSE J. RAMON, VARIANCE, V-11902 and SITE DEVELOPMENT REVIEW, S-1965** – Application to retain an existing dwelling and construct a new triplex attached to the existing dwelling, so as to maintain a four foot side yard where 10 feet is required, and five foot setbacks between a driveway and dwelling wall where 10 feet is required in a R-S-D-20 (Suburban Residence with 2,000 square feet Minimum Building Site Area per Dwelling Unit), located at 239 and 247 Sunset Boulevard, southeast side, approximately 325 feet southwest of Princeton Street, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Numbers: 0429-0091-010-00 and 0429-0091-009-010. (Continued from February 9, March 9 and April 13, May 11, June 8, August 10, September 14, September 28, October 26, November 9 and December 7, 2005).

Staff recommended approval of the application with the modification to Pre Hearing Recommendation #1. The language should read: This variance allows the addition of three dwelling units behind the exiting single family home, which provided a four foot side yard where 10 feet is required and five foot setbacks between a driveway and dwelling wall where 10 feet is required. Board Members had the following questions and concerns:

- The proposed number of units (four) appeared to be excessive for the size of the parcel
- Would the need for a variance be eliminated if the triplex were not attached to the existing dwelling
- Did any of the referral agencies object to the application

Staff explained that the zoning of R-S-D-20 allowed 2,000 square foot per unit. This would allow up to six units. The applicant now proposes a total of four. Staff confirmed that a variance would still be required to meet setback requirements if proposed triplex were detached from the existing dwelling. The City of Hayward had concerns about the lack of architectural relief on the facade of the units but said they could support the application if design issues were addressed. The Cherryland Association recommended denial of the maintenance of reduced side yard setbacks for the existing single family home. Public testimony was opened.

The Applicant, Mr. Ramon and a representative, Mr. Armando Campos were present. The Board had the following questions:

- What are the current side setbacks for 239 Sunset Boulevard
- What are the current side setbacks for 247 Sunset Boulevard
- Does Mr. Ramon own both parcels
- Is there an easement between the two properties
- Has there been a lot line adjustment on either property
- Would the variance be applicable to both parcels
- Can the two parcels be merged together
- Would the granting of the proposed variance impact the future addition of units on either parcel

Mr. Campos told the Board that the side setbacks for 239 Sunset Boulevard are 10 feet. The side setbacks for 247 Sunset Boulevard are four feet. The existing home was brought to the site and placed four feet from the eastern property line prior to the creation of zoning laws. The applicant, Mr. Ramon owns both parcels. An easement does exist between the two properties. Staff explained that the variance is necessary because the original setback creates an area less than 10 feet between the driveway and dwelling wall at the point that the two properties meet. The two parcels can be merged and the variance would be valid for both addresses. Any future proposed expansions would have to meet zoning setback requirements etc. Member Spalding commented that a merger of the parcels may even limit the addition of units in the future. Public testimony was closed.

Member Palmeri motioned to adopt Staff's Tentative Findings of approval with the modification of Finding #2. The property is unique in that the driveway access to the new units as well as the setbacks will be in compliance with the Zoning Ordinance. The setback to the existing home remains unchanged. The merging of the two parcels creates adequate vehicle maneuvering room. The fact that other variances have been granted in the area is not relevant as each individual application must meet findings of approval. Member Friedman seconded the motion. Motion carried 4/0.

3. **THOMAS VAN VOORHIS, VARIANCE, V-11963** – Application to approve as two building sites, lots that are reduced in area from 100 acres to five acres and 73.23 acres; and one parcel without frontage on an approved county road in an "A" (Agricultural) District, located at 22000 Eden Canyon Road, southeast side, approximately one mile northeast of Hollis Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 085A-2201-012-00.

Staff requested the application be continued to January 25, 2006 to allow County Counsel adequate time to review planning documents. Planning staff will consider possible options and present them to the Board at that time. Member Palmeri motioned to continue the application to January 25, 2006. Member Spalding seconded the motion. Motion carried 4/0.

4. **OPHELIA HOLLY, VARIANCE, V-11974** – Application to expand a non-conforming structure and a four foot – six inch rear yard where twenty feet is required with a 240 square foot conforming addition in an R-1-CSU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle) District, located at 2719 Barlow Drive, south east side, corner of Carlton Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084B-0520-034-00.

Planning staff recommended approval of the application. The Castro Valley Municipal Advisory Council recommended approval as well. The Chair asked for a correction in the staff report. The report should

reflect that Barlow Drive is located in Castro Valley. Public testimony was opened.

Ms. Ophelia Holly and Peter Jacobson were present. The architect for the project, Mr. Jacobsen told the Board the home was constructed in 1960 with benefit of a building permit. The lot is located on a corner. The narrowest portion of the lot faces the Carlton Avenue side. The Zoning Ordinance states that the narrowest portion of the lot is designated as the front. The orientation of the front entrance is changed to Carlton Avenue even though it is actually on Barlow Drive. As a result the western side of the lot is considered the rear. The existing home is four foot from the rear property line. The new proposed addition will be conforming and the variance request is as a result of the non conforming four foot rear setback. The second story will conform to the Ordinance, 25 foot maximum height limitation. The lot slopes, which makes the second story addition barely visible from the street. Public testimony was closed.

Member Friedman motioned to adopt the staff recommendation of approval. Member Spalding seconded the motion. Motion carried 4/0.

5. **MINXI LIU, VARIANCE, V-11975 & SITE DEVELOPMENT REVIEW, S-2027** – Application to retain an existing single family dwelling, construct a two-unit addition to an existing duplex and construct a new single family dwelling with a nine foot setback from the driveway where 10 feet is required in an R-S-D-20 (Suburban Residence, 2,000 Minimum Building Site Area per Dwelling Unit) District, located at 261 Laurel Avenue, southeast side, approximately 250 feet southwest of Princeton Street, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 431-0016-014-00.

Staff recommended approval of the application. The Board had the following questions:

- What is the zoning density of the parcel
- Does the project meet open space requirements
- Will there be revisions to the General Plan that increase zoning density in the area
- What is the setback for the proposed rear units
- What is distance between the proposed rear condo units and the fence
- Is there sufficient room for a fire truck turn around
- How wide are the proposed parking stalls
- Where is guest parking located
- Will any of the existing fencing be replaced
- Are there any new or pending Code Enforcement violations on the property
- Is the dedication of Public Right of Way necessary

Staff responded that the rear yard for the proposed duplex would be 10 feet. Although located on the side of the parcel the zoning definition designates the west side of the property as the rear. The rear yard for the proposed single family home is 20 feet. The project does meet open space requirements. All parking stalls are a minimum of eight feet or larger and meet zoning requirements as well. The Zoning Ordinance does not require guest parking under this zoning classification. Currently there are no proposals to increase zoning density for the area. No current Code Enforcement complaints are on file. Member Friedman thought a slight postponement may be in order in light of the issues raised in the letter received from the neighbor. This would allow staff to investigate the accuracy of neighbor's claims. Staff said in reference to the complaints some of which are garbage and graffiti etc. would prevent the Board from approving the application. However Code Enforcement will be sent out to inspect the property. The

Board asked if staff if rental vacancies rates were taken into consideration when determining if there is a need for housing or as a way to gauge if the project would be detrimental to persons in the neighborhood. Staff responded that the neighbor's letter had just been received that day prior to the hearing. Community Development calculates what the housing needs are for the area. Land Development may require the dedication of some frontage however the possibility that the County will exercise the Future Width Line is small. Member Palmeri departed the meeting at 6:40 p.m. Public testimony was opened.

The applicant Mr. Miguel Ayala and the project architect Mr. Liu were present. Mr. Liu said the overall project design and parking design allows for sufficient vehicle turn around area and shields parking from view. The Fire Department would require a 40 foot diameter area for a fire truck turnaround. The area will not accommodate that so the new development will have sprinkles installed. Member Friedman said he was concerned about the lack of a pedestrian walkway and the limited availability of off street parking in the area. He asked Mr. Liu if the applicant would consider reducing the total number of proposed units. Mr. Liu said he could review the parking options. The applicant, Mr. Ayala will live on site which should alleviate issues with noise, graffiti, garbage etc. The chain link fence on the left portion of the property will be replaced. Public testimony was closed.

Member Friedman motioned to continue the application to allow staff to verify information received from the neighbor and consider design options for a reduced number of units. Staff interjected and said that typically those issues can be resolved during the Site Development Review portion of the project. Member Friedman's motion died due to lack of a second.

Member Spalding motioned to deny the application. Member Spalding's motion died due to lack of a second. The Chair suggested the application be continued. Member Spalding motioned to continue the application to January 25, 2006 to consider possible revisions and/or reduction to the total number of proposed units and to allow Code Enforcement to visit the property. Member Friedman seconded the motion. Motion carried 3/0. Member Palmeri was not present for the vote.

**APPROVAL OF MINUTES:** Member Palmeri motioned to continue approval of the September 14, 2005 Minutes to the January 11, 2006 Meeting. Member Spalding seconded the motion. Motion carried 4/0.

**STAFF COMMENTS & CORRESPONDENCE:** Staff had no comments or correspondence.

**CHAIR'S REPORT:** For 2005 there have been 123 Regular Calendar items and 24 appeals. The application appeal rate is 19%.

**BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:** Member Friedman will not be present at the January 25, 2006 Meeting.

**ADJOURNMENT:** There being no further business, the hearing adjourned at 7:07 p.m.

---

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