



Office of the City Manager

CONSENT CALENDAR
September 18, 2007

To: Honorable Mayor and
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Daniel Marks, Director, Planning and Development

Subject: ZAB Appeal: 1625 Berkeley Way

RECOMMENDATION

Adopt a Resolution affirming the decision of the Zoning Adjustments Board to approve Use Permit No.06-10000117 to construct an addition to an existing dwelling located at 1625 Berkeley Way and dismissing the appeal.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On April 12, 2007, the Zoning Adjustments Board approved (5-2-1-0-1) a Use Permit application to construct a 624 foot second story addition and legalize a 407 square foot addition on an existing single-family dwelling unit that is non-conforming for lot coverage and west (left) side yard setback at 1625 Berkeley Way. On May 15, 2007, a neighbor located at 1623 Berkeley Way appealed the Zoning Adjustments Board's decision.

BACKGROUND

Site and surrounding area conditions

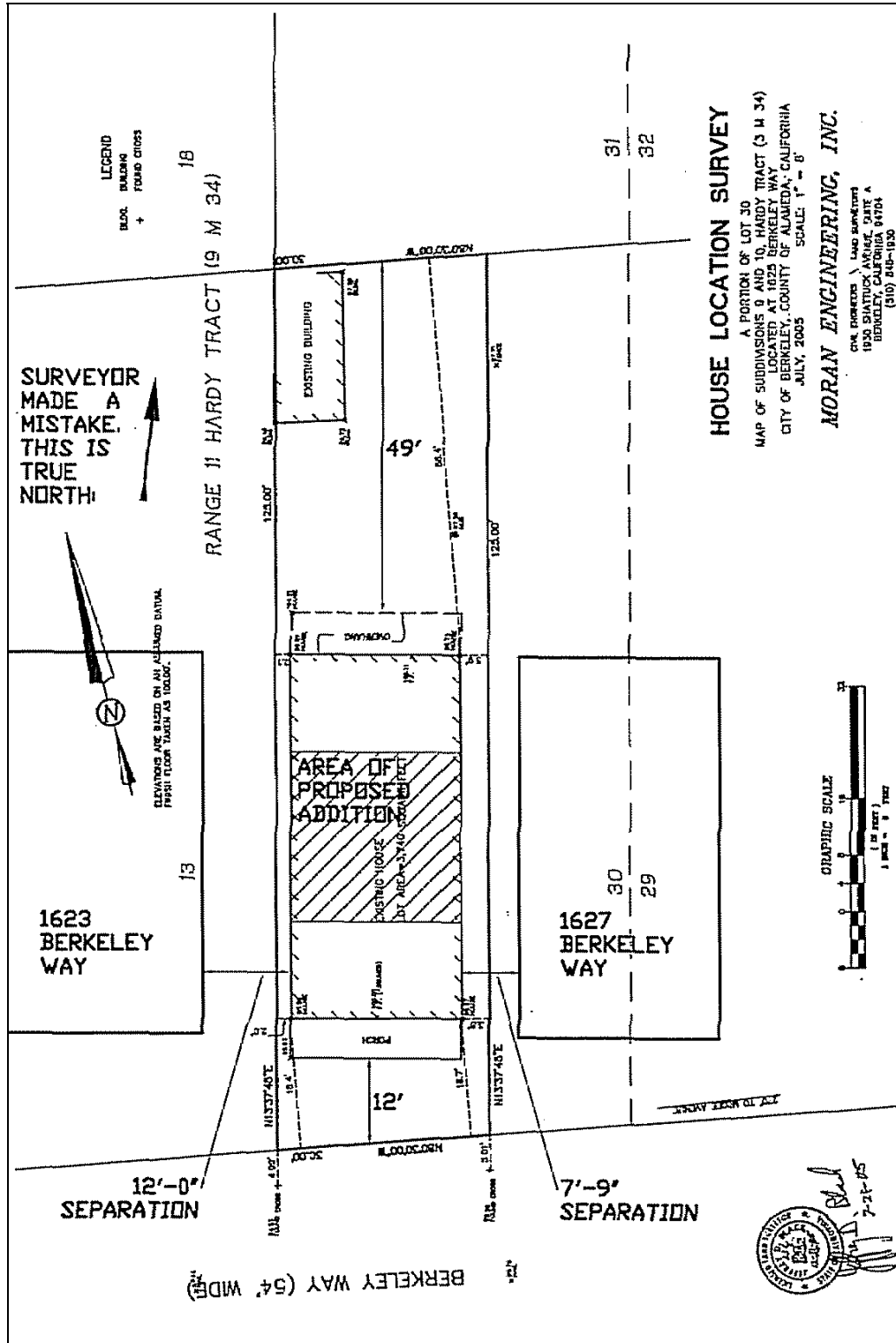
The project site is an interior lot on the north side of Berkeley Way between California Street and McGee Avenue. The lot area is 3,750 square feet and it is 30 feet wide. A single-family dwelling unit is located on the project site and it has a partial second story at the rear. An accessory structure (shed) is in the northwestern corner of the lot (rear). The site is legally non-conforming for parking, lot coverage and setbacks, since: no parking exists; the existing lot coverage is 46 per cent; and front and left (west) side yard setbacks do not conform to the Zoning Ordinance requirements.

Properties within the vicinity are used for residential purposes. Single-family dwelling units are primarily constructed on these lots, although some multi-unit dwellings are located throughout the nearby area.

Figure 1: Vicinity Map



Figure 2: Site Plan



Project description

The scope of the project involves the following:

1. Legalizing an approximately 407 square foot addition completed by a previous owner for a master bedroom on the second story of the dwelling unit; and
2. Adding approximately 624 square feet to the existing partial second story to create two bedrooms, a sitting room, and a bathroom.

The proposed addition requires a Use Permit since the existing lot coverage (which includes the building footprint of the dwelling and an accessory structure) exceeds the maximum allowable lot coverage. The existing lot coverage is approximately 46 per cent, whereas 40 per cent is allowed. The addition would not increase lot coverage. The following additional Administrative Use Permits are triggered by the addition:

1. Major residential addition since the addition is greater than 600 square feet;
2. Residential addition exceeding 14 feet in average height; and
3. Vertical extension of the existing left (west) side yard setback, which is non-conforming. The existing setback is approximately two feet, whereas three feet is required.

Zoning Adjustments Board decision

The Zoning Adjustments Board held a public hearing on the application on April 12, 2007. The Board heard testimony from the applicant and from project supporters and objectors (see page 190-248 of Attachment 4 for extract of real-time closed captioner's transcript of meeting).

The Zoning Adjustments Board considered the project, particularly neighbor concerns related to shadowing, privacy, compatibility with the area, and construction effects. Although the Board did not consider these effects significant, they did impose some special conditions of approval that they felt were appropriate. These conditions relate to regulating construction hours (Condition 13), applicant's civil obligations regarding trespass and repair/compensation for any construction damages (Condition 22), and mitigating shadowing effects (Conditions 12, 25, 26, and 27) on 1627 Berkeley Way.

The Board approved (5-2-1-0-1) the Use Permit application pursuant to Berkeley Municipal Code Section 23B.32.040. The Board's findings (see Attachment 1: Exhibit A for full text) were as follows:

1. The project is categorically exempt from the provisions of the California Environmental Quality Act;

2. The proposal would be consistent with policies and purposes of the General Plan, University Avenue Strategic Plan, and the Restricted Multiple-Family Residential (R-2A) District, and compatible with the existing built environment of the area, since:
 - A. The existing non-conforming front (south) setback would not be altered since the addition would be a partial second story addition setback 32 feet from the street. The existing left (west) side yard setback is non-conforming since it is two feet, whereas three feet is required. This setback would be continued vertically to construct the new addition. However, the privacy and shadowing effects on the neighbor located to the west (1623 Berkeley Way - appellant) would not be significant for the reasons outlined in the findings related to shadowing and privacy, below;
 - B. The average height of the proposed addition would only be approximately two feet greater than the height of the existing partial second story (the ridge of the proposed addition would be approximately five feet higher than the ridge of the existing partial second story). The finished average height of the dwelling unit would be approximately 25 feet, which is less than the maximum average height of 28 feet permitted in the District. The finished average height of the dwelling unit would be compatible with other dwelling units in the area; and
 - C. The proposed bulk of the addition would be compatible with existing residential buildings in the street since there is a mixture of one and two story dwellings in the area. The addition would only result in a partial second story that would be setback from the street. In addition, lot coverage would not be increased and it is currently only 46 per cent, whereas 40 per cent is permitted. The dwelling itself would comply with the permitted lot coverage, however an accessory structure (shed) with an area of 210 square feet makes lot coverage non-conforming;
3. The proposal would not create any significant additional shadowing effects on neighboring habitable structures since:
 - A. Because of the orientation of the lots the proposed addition would not shadow one dwelling throughout the whole day; the east side of 1623 Berkeley Way (appellant) would be affected in the morning, and the west side of 1627 Berkeley Way would be affected in the afternoon;
 - B. The project site and the adjoining lots to the east and west are aligned lengthwise to the north and south, which is a more optimum orientation for providing solar access than east and west. As a result of this lot orientation the front (south) of each of the dwellings on these lots would have solar

- access throughout much of the day. The living areas are located on this side of each of these dwellings; and
- C. Solar access is maximized into at least some of the living areas of dwellings, rather than protecting all rooms of dwellings such as bedrooms and bathrooms or protecting yards;
4. The project would not have significant privacy effects since:
- A. The proposed addition on the second story would be for bedrooms and a bathroom, which are less likely than living areas to generate privacy conflicts;
- B. There would not be a direct line of sight between windows of the addition and windows of the existing dwellings located on 1623 Berkeley Way (appellant) and 1627 Berkeley Way because of the position of windows on these dwellings and since the addition is on a higher level (second story); and
- C. The dwelling is separated from the dwellings on 1623 Berkeley Way (appellant) and 1627 Berkeley Way by approximately 12 feet and 7.75 feet, respectively;
5. The project would not have significant view effects on the resident to the east (1627 Berkeley Way) since:
- A. The General Plan identifies significant views such as the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz Island;
- B. The proposed right (east) side yard setback would be 3.8 feet, whereas only 3 feet is required;
- C. The addition would be conforming with the average height limits specified for the District; and
- D. Other rooms in the dwelling (including the front living rooms) at 1627 Berkeley Way provide outlook to the front and rear yard;
6. The applicant considered alternative options to minimize the potential effects of the project on abutting neighbors, particularly relating to shadowing and privacy;
7. The additional rooms would not result in an increase in the need for parking. No off-street parking exists on the project site and it would be very difficult to provide it. The Zoning Ordinance requires off-street parking based on the number of dwelling units rather than the number of bedrooms. In addition, it does not

require new off-street parking to be provided for additions if existing dwellings are non-conforming for off-street parking;

8. Additions of this scale are commonly carried out throughout Berkeley without damaging landscaping in neighbor's yards, or involvement from the City in neighbor issues related to property lines.

The Administrative Record for this project is attached to this report (see Attachment 4).

RATIONALE FOR RECOMMENDATION

The appeal (see Attachment 2 for full text) of the Zoning Adjustments Board decision relied on five main issues, which are summarized below and followed by a Staff response.

Issue 1:

The ZAB decision did not provide any mitigation for the loss of sunlight, air, and privacy on our home. We feel that these are important and substantial impacts. While we do not object to our neighbor making better use of his home to accommodate his growing family, this could be done without significantly reducing the light, sunshine and privacy of our house and without creating a wind tunnel effect into our yard. There already is a partial second-story addition on their house, and the neighbor on our west side has also put up a very large second-story addition, so this new addition further boxes us in.

Response 1:

The Zoning Adjustments Board considered potential shadowing and privacy effects of the project on adjacent habitable structures, particularly on residents at 1623 Berkeley Way (appellant) and 1627 Berkeley Way. The Board found that the project would not create any significant additional shadowing or privacy effects since:

1. Because of the orientation of the lots the proposed addition would not shadow one dwelling throughout the whole day; the northeast side (rear half of east side) of 1623 Berkeley Way (appellant) would be affected in the morning, and the northwest side (rear half of west side) of 1627 Berkeley Way would be affected later in the afternoon;
2. The project site and the adjoining lots to the east and west are aligned lengthwise to the north and south, which is a better orientation for providing solar access than east and west. As a result of this lot orientation the front (south) of each of the dwellings on these lots would have solar access throughout much of the day. Since living areas are located on this side of each of these dwellings solar access is maximized into more lived-in parts of the dwellings. Maintaining solar access into these areas is more important than protecting less lived-in rooms of dwellings such as bedrooms and bathrooms, or protecting yards;

3. The proposed addition on the second story would be for bedrooms and a bathroom, which are less likely than living areas to generate privacy conflicts for neighbors since they are less lived-in and blinds/curtains are more often used in these rooms;
4. There would not be a direct line of sight between windows of the addition and windows of the existing dwellings located on 1623 Berkeley Way (appellant) and 1627 Berkeley Way because of the position of windows on these dwellings and since the addition is on a higher level (second story); and
5. The dwelling is separated from the dwellings on 1623 Berkeley Way (appellant) and 1627 Berkeley Way by approximately 12 feet and 7.75 feet, respectively.

The Zoning Adjustments Board did not discuss the potential of the project to create wind tunnels since this effect is not associated with projects of this type. Wind tunnels are usually associated with high-rise buildings, particularly when buildings are significantly higher than nearby buildings. Wind tunnels would not be created in this case since the project is limited to a partial second story would be added to an existing single family dwelling, and the resulting height of the building would be consistent with the height of existing dwellings in the area.

Issue 2:

If the City is going to allow the Applicant to build just two feet from our property line in the setback area, it should at least minimize the increase in height. The Applicant's design never included the erection of story poles to test the height of the proposed addition. An addition that is four or five feet higher than their existing second story will have an even greater impact on us. We don't feel that the design needs to be so high. We believe that minor architectural modifications could be made to reduce the height of the proposed addition and line it up with the existing roof line, without reducing the proposed living space. Because story poles were never erected, we have had no opportunity to evaluate lower roof line designs.

Response 2:

Story poles are typically only used on lots that are vacant when a new dwelling is proposed or to evaluate the significance of effects on views (particularly on sloping lots in the Berkeley Hills). They are not used for additions of this type since the existing dwelling provides adequate reference points for evaluating potential effects of the project.

The applicant and the Zoning Adjustments Board considered alternative options to minimize the potential effects of the project on abutting neighbors. The Board considered the potential effects of the project on neighbors and approved the applicant's

proposal subject to conditions, including conditions imposed to mitigate potential shadowing effects (Conditions 12, 25, 26, and 27) on 1627 Berkeley Way.

Issue 3:

We are in our mid-eighties, and spend much of our time at home. We are concerned about the noise and disruption during construction, and the high likelihood that the workers will trample on our plants and leave debris on our property, because the neighbor only has a two-foot wide space to work in between his house and the property line. The ZAB decision does not require the applicant to provide a specific construction management plan to keep debris from falling on our property, to control noise, and to protect our plants.

Response 3:

These concerns were raised by the appellant in writing and were specifically discussed by the Zoning Adjustments Board.

The City's Community Noise Ordinance (Berkeley Municipal Code 13.40) includes provisions to control potential noise effects associated with construction activities. These regulations would apply as well as a special condition of approval (Condition 13) applied to this project, which sets more restrictive construction hours than the Noise Ordinance. The permitted hours of construction would be between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity would be permitted on Sunday.

The appellant is also concerned about the potential effect of construction activities on landscaping in their yard. However, additions of this scale are commonly carried out throughout Berkeley without negatively affecting neighbors' yards. The Zoning Adjustments Board discussed this issue and imposed a special condition of approval (Condition 22) that *"the applicant shall comply with any civil laws or responsibilities prohibiting trespass on adjoining properties, and repair/compensation for any damage to adjoining properties caused by construction activity"*.

Issue 4:

Although the Applicant's Statement acknowledged that there would be impacts and suggested that they would take modest steps to alleviate them such as painting their house a lighter color, and engaging a landscape gardener to develop a plant impact mitigation plan these adjustments are not reflected in the Notice of Decision.

Response 4:

The Zoning Adjustments Board discussed potential effects of the project, particularly on adjacent neighbors at 1623 Berkeley Way (appellant) and 1627 Berkeley Way. Issues

the Board considered included shadowing, privacy, compatibility with the area, and construction effects. Although the Board did not consider these effects significant, they did impose some special conditions of approval that they felt were appropriate.

Condition 13 was imposed to regulate construction hours. Condition 22 was added to clarify the applicant's responsibility to observe any civil laws or responsibilities prohibiting trespass on adjoining properties, and to repair or compensate for any damage to adjoining properties caused by construction activity. The Board did not require a plant impact mitigation plan for the project.

Although the Board did not consider shadowing effects to be significant, it did add conditions to mitigate shadowing effects on 1627 Berkeley Way. Conditions 12, 25, 26, and 27 require the applicant to pay for the installation of a skylight at 1627 Berkeley Way, paint the house a lighter color on this side, and remove eave overhangs. The Board did not require any shadowing mitigations in favor of 1623 Berkeley Way (appellant) since shadowing effects on this building were even less significant.

Issue 5:

Unfortunately, my wife and I were out of the country and were unable to attend the ZAB hearing on April 12. Had we been able to attend, we would have been able to emphasize these points and suggest these corrective measures:

- 1. Lower the roof line of the proposed addition to be no higher than the existing partial second-story addition;*
- 2. Include specific requirements in the use permit to control and muffle noise, to prevent debris from falling on our property, and screen dust from coming into our house;*
- 3. Include a plant impact mitigation plan;*
- 4. Paint the house a lighter, non-glaring color.*

Response 5:

Although the appellants were not present at the Zoning Adjustments Board meeting on April 12, 2007, the objections they raised in their appeal letter were discussed and considered by the Board. A letter the appellants submitted prior to the Zoning Adjustments Board meeting on April 12, 2007 was attached to the Staff Report submitted to the Board and the issues raised in the letter were discussed in the Staff Report. A number of the appellant's mature aged children (and children in-law) were present at the Zoning Adjustments Board meeting, submitted supplemental written materials to the Board, and raised the same issues in their testimony. Neither the

appellants nor their children representing them asked the Board to continue the hearing to a later date.

Although the Board did not consider the effects raised by the appellants to be significant, they did impose some special conditions of approval that they felt were appropriate. These conditions relate to potential construction effects (Conditions 13 and 22) on 1623 Berkeley Way (appellant), and mitigating shadowing effects (Conditions 12, 25, 26, and 27) on 1627 Berkeley Way.

Summary

The issues raised in the appeal were previously raised by the appellant and were evaluated by City Staff and the Zoning Adjustments Board at their meeting on April 12, 2007. Although the Board did not consider these effects significant, they did impose some special conditions of approval that they felt were appropriate. These conditions relate to construction hours (Condition 13), applicant's civil obligations regarding trespass and repair/compensation for any construction damages (Condition 22), and mitigating shadowing effects (Conditions 12, 25, 26, and 27) on 1627 Berkeley Way. The Zoning Adjustments Board approved the Use Permit since the project is consistent with the General Plan and the Zoning Ordinance, and the project would not have a significant effect on surrounding uses.

For these reasons, Staff recommends that the City Council adopt a resolution affirming the decision of the Zoning Adjustments Board to approve Use Permit No. 06-10000117 to construct an addition to an existing dwelling located at 1625 Berkeley Way and dismissing the appeal.

ALTERNATIVE ACTIONS CONSIDERED

Section 23B.32.060 of the Berkeley Municipal Code (BMC) provides that the Council may take one of the following actions on the appeal of the ZAB decision:

1. Affirm ZAB Decision: If the Council determines that the facts ascertainable from the record prepared by the Zoning Officer do not warrant further hearing, the Council shall affirm the decision of the ZAB and dismiss the appeal, in which case the application is approved;
2. Set for Public Hearing: If the Council determines that the facts ascertainable from the record prepared by the Zoning Officer warrant further hearing, the Council shall set the matter for a public hearing; and
3. Remand to ZAB: If the Council determines that the facts ascertainable from the record prepared by the Zoning Officer warrant reconsideration of the application by the ZAB, or if the applicant has submitted revisions to the application, the Council shall remand the matter to the ZAB to reconsider the application, in which case it shall specify whether or not the ZAB shall hold a new public

hearing, and shall identify those issues which the ZAB is directed to investigate and reconsider.

ACTION DEADLINES

The appeal first appeared on the City Council's agenda of September 18, 2007. If none of the three actions shown above is taken by October 18, 2007 (30 days from the date the appeal first appeared on the agenda), the decision of the ZAB is deemed affirmed. If the City Council resolves to hold a public hearing, a public hearing must commence within 60 days of the date of the Resolution.

CONTACT PERSON

Debbie Sanderson, Acting Land Use Planning Manager, Planning and Development, (510) 981-7411.

Attachments:

- 1: Resolution
 - Exhibit A: Findings and Conditions
 - Exhibit B: Project Plans
- 2: Appeal
- 3: Index to Administrative Record
- 4: Administrative Record

RESOLUTION NO. ##,###-N.S.

AFFIRMING THE DECISION OF THE ZONING ADJUSTMENTS BOARD TO APPROVE
USE PERMIT No. 06-10000117, 1625 BERKELEY WAY

WHEREAS, on September 18, 2006 a Use Permit application was submitted to construct an addition to an existing dwelling located at 1625 Berkeley Way; and

WHEREAS, the project is deemed categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities"); and

WHEREAS, on April 12, 2007, the Zoning Adjustments Board held a public hearing and approved (5-2-1-0-1; Recused: Doran; Absent: Judd) Use Permit No. 06-10000117, by making the required findings and adopting conditions of approval; and

WHEREAS, on May 1, 2007 a Notice of Decision of the Zoning Adjustments Board's action was issued, with a right of appeal allowed for 14 days thereafter; and

WHEREAS, on May 15, 2007 the Zoning Adjustments Board's decision was appealed to the City Council by a neighbor located at 1625 Berkeley Way, Berkeley; and

WHEREAS, attached hereto are the findings and conditions of approval applicable to this permit (Exhibit A) that are included by reference as though fully incorporated herein; and

WHEREAS, attached hereto is a reduced copy of the approved plans (dated October 29, 2006 and received on October 31, 2006 and marked as Exhibit B) that is included by reference as though fully incorporated herein; and

WHEREAS, the Council has considered the record of the proceedings before the Zoning Adjustments Board; the recent Staff reports and correspondence presented to the City Council, and, in the opinion of this Council, the facts stated in, or ascertainable from this information, warrant affirming the decision of the Zoning Adjustments Board to approve the subject Use Permit, and dismissing the appeal.

NOW THEREFORE, BE IT RESOLVED the Council of the City of Berkeley hereby affirms the decision of the Zoning Adjustments Board to approve Use Permit No. 06-10000117 to construct an addition to an existing dwelling located at 1625 Berkeley Way based on the findings, and subject to the conditions of approval contained in Exhibit A, and dismisses the appeal.

Exhibits

A: Findings and Conditions

B: Project Plans

1625 Berkeley Way

Use Permit #06-10000117 to construct a 624 foot second story addition and legalize a 407 square foot addition on an existing single-family dwelling unit that is non-conforming for lot coverage and west (left) side yard setback

CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15301 of the CEQA Guidelines (Existing Facilities”).

GENERAL NON-DETRIMENT FINDING

2. Pursuant to Berkeley Municipal Code Section 23B.32.040, the Zoning Adjustments Board finds that the proposed project “...under the circumstances of the particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City”, for the following reasons:
 - A. The proposal would be consistent with policies and purposes of the General Plan, University Avenue Strategic Plan, and the Restricted Multiple-Family Residential (R-2A) District, and compatible with the existing built environment of the area, since:
 - i. The existing non-conforming front (south) setback would not be altered since the addition would be a partial second story addition setback 32 feet from the street. The existing left (west) side yard setback is non-conforming since it is two feet, whereas three feet is required. This setback would be continued vertically to construct the new addition. However, the privacy and shadowing effects on the neighbor located to the west (1623 Berkeley Way) would not be significant for the reasons outlined in the findings related to shadowing and privacy, below;
 - ii. The average height of the proposed addition would only be approximately two feet greater than the height of the existing partial second story (the ridge of the proposed addition would be approximately five feet higher than the ridge of the existing partial second story). The finished average height of the dwelling unit would be approximately 25 feet, which is less than the maximum average height of 28 feet permitted in the District. The finished average height of the dwelling unit would be compatible with other dwelling units in the area; and
 - iii. The proposed bulk of the addition would be compatible with existing residential buildings in the street since there is a mixture of one and two story dwellings in

the area. The addition would only result in a partial second story that would be setback from the area. In addition, lot coverage would not be increased and it is currently only 46 per cent, whereas 40 per cent is permitted. The dwelling itself would comply with the permitted lot coverage, however an accessory structure (shed) with an area of 210 square feet makes lot coverage non-conforming;

- B. The proposal would not create any significant additional shadowing effects on neighboring habitable structures since:
 - i. Because of the orientation of the lots the proposed addition would not shadow one dwelling throughout the whole day; the east side of 1623 Berkeley Way would be affected in the morning, and the west side of 1627 Berkeley Way would be affected in the afternoon;
 - ii. The project site and the adjoining lots to the east and west are aligned lengthwise to the north and south, which is a more optimum orientation for providing solar access than east and west. As a result of this lot orientation the front (south) of each of the dwellings on these lots would have solar access throughout much of the day. The living areas are located on this side of each of these dwellings; and
 - iii. Solar access is maximized into at least some of the living areas of dwellings, rather than protecting all rooms of dwellings such as bedrooms and bathrooms or protecting yards;

- C. The project would not have significant privacy effects since:
 - i. The proposed addition on the second story would be for bedrooms and a bathroom, which are less likely than living areas to generate privacy conflicts;
 - ii. There would not be a direct line of sight between windows of the addition and windows of the existing dwellings located on 1623 and 1627 Berkeley Way because of the position of windows on these dwellings and since the addition is on a higher level (second story); and
 - iii. The dwelling is separated from the dwellings on 1623 and 1627 Berkeley Way by approximately 12 feet and 7.75 feet, respectively;

- D. The project would not have significant view effects on the resident to the east (1627 Berkeley Way) since:
 - i. The General Plan identifies significant views such as the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz Island;
 - ii. The proposed right (east) side yard setback would be 3.8 feet, whereas only 3 feet is required;
 - iii. The addition would be conforming with the average height limits specified for the District; and
 - iv. Other rooms in the dwelling (including the front living rooms) at 1627 Berkeley Way provide outlook to the front and rear yard;

- E. The applicant considered alternative options to minimize the potential effects of the project on abutting neighbors, particularly relating to shadowing and privacy;

- F. The additional rooms would not result in an increase in the need for parking. No off-street parking exists on the project site and it would be very difficult to provide it. The Zoning Ordinance requires off-street parking based on the number of dwelling units rather than the number of bedrooms. In addition, it does not require new off-street parking to be provided for additions if existing dwellings are non-conforming for off-street parking;
- G. Additions of this scale are commonly carried out throughout Berkeley without damaging landscaping in neighbor's yards, or involvement from the City in neighbor issues related to property lines.

STANDARD CONDITIONS

1. **Conditions Shall be Printed on Plans**

The conditions of this Permit shall be printed on the first sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. The second sheet may also be used if the first sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2' by 11" sheets are not acceptable.

2. **Applicant Responsible for Compliance with Conditions**

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

3. **Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)**

- A. This Permit authorizes only those uses and activities actually proposed in the application and exclude other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

4. **Modification of Permits (Section 23B.56.020)**

No change in the use for which this Permit is approved is permitted unless the Permit is modified by the Zoning Adjustments Board, in conformance with Section 23B.56.020.A.

Changes in the plans for the construction of a building or structure, may be modified prior to the completion of construction, in accordance with Section 23B.56.030.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project. The Zoning Officer may also approve a maximum two-foot variation to Board approved plans, provided, that such variation does not increase a structure's height, reduce the

minimum distance to any property line, and/or does not conflict with any special objective sought by the Board. In the case of modifications to Use Permits for construction of, or additions of changes to single family homes which required Board review, the Zoning Officer shall follow Board policy adopted March 13, 1997, as follows:

- A. Upon applications for modifications to a home where a Use Permit has been granted, Staff shall review the Use Permit to determine if any explicit conditions were placed on the Use Permit that would be affected by the proposed modification.
- B. If, prior to acting on a Building Permit, Staff becomes aware of controversy over an earlier application, Staff may choose to conduct a more detailed review of the record to determine if conditions were implied by the Board or offered by the applicant (but not included in the Use Permit conditions) that would be affected by the proposed modification (this does not imply that Staff will review the whole Use Permit record for all applications).
- C. If there are explicit conditions (#A) or implied conditions (#B) affected by the proposed modification, the project shall be brought back to the Board as a Use Permit Modification.
- D. If there are no explicit conditions that would be affected by the proposed modification, and if Staff is not otherwise aware of implied conditions, and the project would otherwise meet the requirements of the Zoning Ordinance, Staff will approve the Building Permit without Board or public review.

5. Plans and Representations Become Conditions (Section 23B.56.030)

Except as expressly specified herein, the site plan, floor plans, building elevations and any additional information or representations submitted by the applicant during the Staff review and public hearing process leading to the approval of this Permit, whether oral or written, which indicated the proposed structure or manner of operation are deemed conditions of approval.

6. Subject to all City and Other Regulations (Section 23B.56.040)

The approved use and/or construction are subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies.

7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8 below.

8. Exercise and Lapse of Permits (Section 23B.56.100)

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has (1) applied for a building permit or (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

ADDITIONAL CONDITIONS

Pursuant to BMC Section 23B.32.040.D, the Zoning Adjustments Board attaches the following conditions to this Permit:

Prior to Applying for a Building Permit

9. Prior to applying for a building permit, the applicant shall provide the project planner with the name and telephone number of the individual empowered to manage construction noise from the project. The individual's name, telephone number, and responsibility for noise management shall be posted at the project site for the duration of construction in a location easily visible to the public. The individual shall record all noise complaints received and actions taken in response, and submit this record to the project planner upon request.

Noise Management Individual _____
Name Phone #

10. Prior to applying for a building permit, the applicant shall complete a "Construction and Demolition Recycling Plan," submit the plan to the Solid Waste Management Division for approval, and attach the approved plan to the construction drawings. The plan is available at www.ci.berkeley.ca.us/onlineservice/forms.htm#planning (look under "Land Use Planning") or by contacting Land Use Planning at 510-981-7410. After completing the form contact Solid Waste Management at 981-6368 for approval.

City Monitor: Solid Waste Mgmt. Staff _____
Signature Date

11. Prior to applying for a building permit, the applicant shall secure the City Traffic Engineer's approval of a construction traffic management plan. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, 3rd floor, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The City Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety, or convenience of the surrounding neighborhood.

□ City Monitor: Traffic Engineer _____
Signature Date

Prior to Issuance of Any Building Permit

12. The owner of 1627 Berkeley Way and the applicant shall agree in writing to details of a skylight to be installed in the kitchen/meals area of 1627 Berkeley Way at the applicant's expense. The applicant shall provide a copy of this agreement to the project planner. The City Zoning Officer may stipulate minimum requirements for the skylight should the owner of 1627 Berkeley Way and the applicant fail to reach agreement (see Condition 25 for timing of installation).

During Construction:

13. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday.
14. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.
15. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
16. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
17. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
18. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.

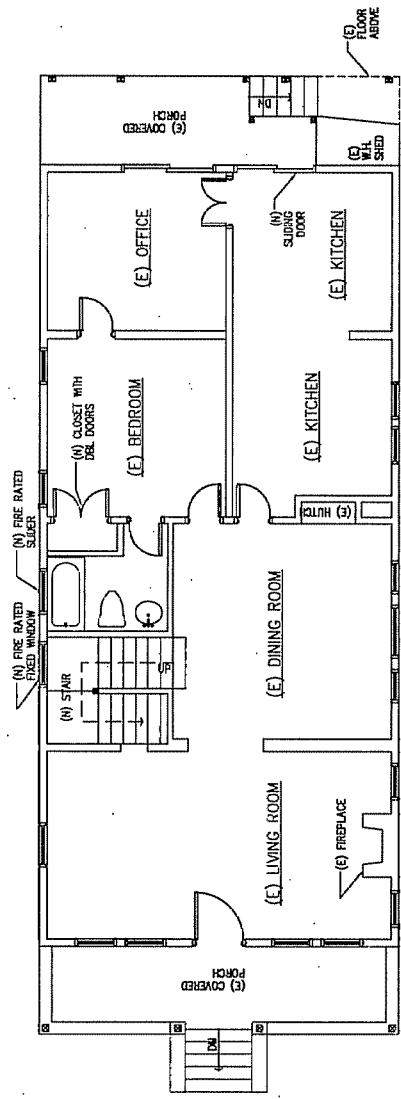
19. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
20. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
21. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season (between October 15 and April 15), the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department.
22. The applicant shall comply with any civil laws or responsibilities prohibiting trespass on adjoining properties, and repair/compensation for any damage to adjoining properties caused by construction activity.

Prior to Issuance of Occupancy Permit or Final Inspection:

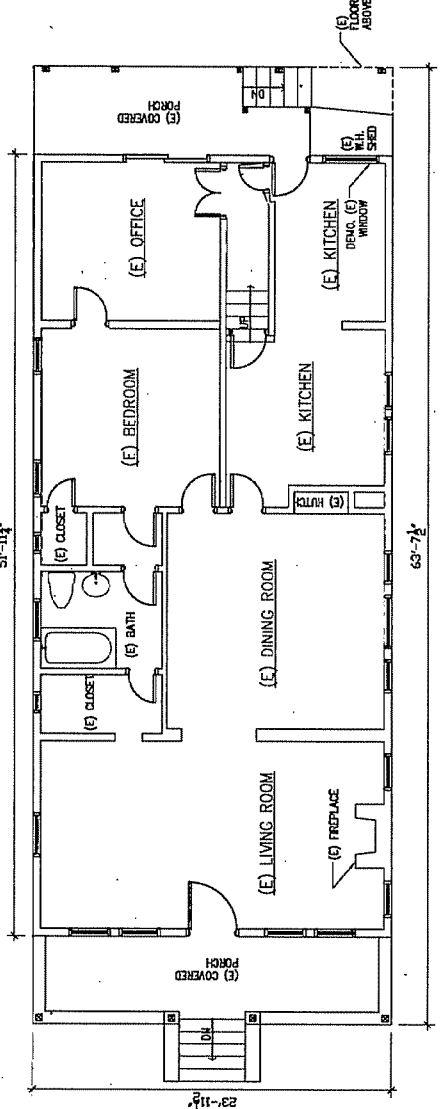
23. The project shall conform to the plans and statements in the Use Permit.
24. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated October 29, 2006 and received on October 31, 2006.
25. A skylight shall be installed for 1627 Berkeley Way in accordance with the agreement required pursuant to Condition 12, unless the owner of 1627 Berkeley Way agrees to an alternative deadline for construction.
26. The applicant shall remove the existing eave overhangs on the eastern side of 1625 Berkeley Way, and the new addition shall not include eave overhangs. This work shall be shown on any building permit plans submitted for the project.
27. The applicant shall paint the eastern side of the 1625 Berkeley Way a lighter color to increase the amount of light into the windows of 1627 Berkeley Way.

At All Times:

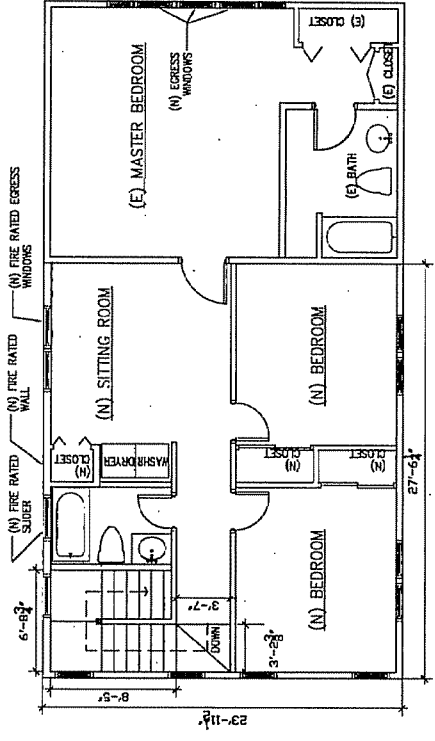
28. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
29. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.



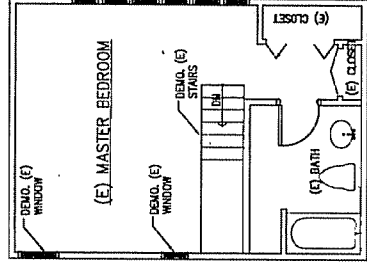
C PROPOSED FIRST FLOOR
1/4" = 1'-0"



A EXISTING FIRST FLOOR
1/4" = 1'-0"



D PROPOSED SECOND FLOOR
1/4" = 1'-0"



B EXISTING SECOND FLOOR
1/4" = 1'-0"

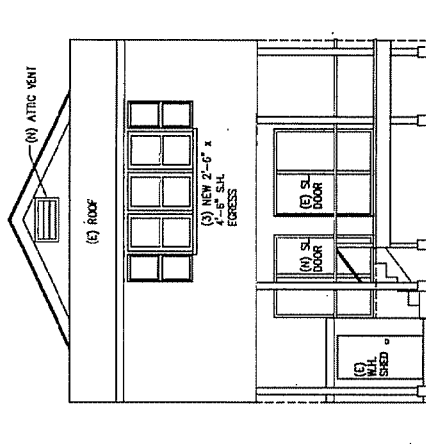
Stein Residence
1625 BERKELEY WAY
BERKELEY, CA 94703

ISSUES:
DATE: 11/15/00
DESCRIPTION: EXISTING AND PROPOSED
TODAY'S ASSUMPTIONS:
PREPARED BY: [Redacted]
1625 BERKELEY WAY
BERKELEY, CA 94703

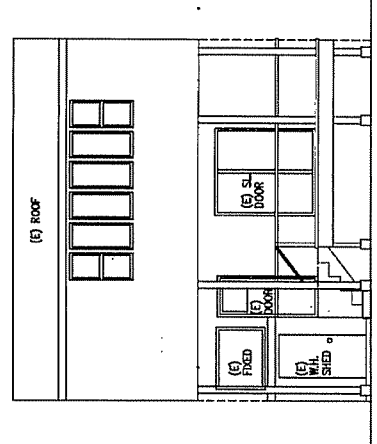
SHEET TITLE: FLOOR PLANS

SHEET NUMBER: 2

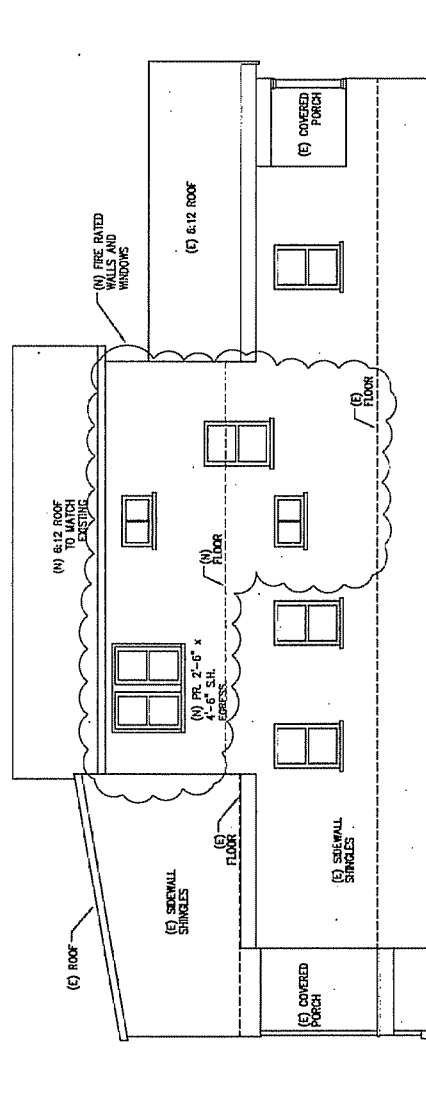
| | |
|---------------|---------------------------------------|
| TITLE: | PROPOSED NORTH AND WEST ELEVATIONS |
| DATE: | 12/20/2014 |
| DESCRIPTION: | REMODEL |
| DRAWN BY: | DAVID L. HARRIS |
| CHECKED BY: | DAVID L. HARRIS |
| APPROVED BY: | DAVID L. HARRIS |
| DATE: | 12/20/2014 |
| PROJECT: | STEIN RESIDENCE |
| PREPARED BY: | DAVID L. HARRIS |
| DATE: | 12/20/2014 |
| PROJECT: | STEIN RESIDENCE |
| ADDRESS: | 1625 BERKELEY WAY, BERKELEY, CA 94703 |
| SHEET TITLE: | NORTH AND WEST ELEVATIONS |
| SHEET NUMBER: | 3 |



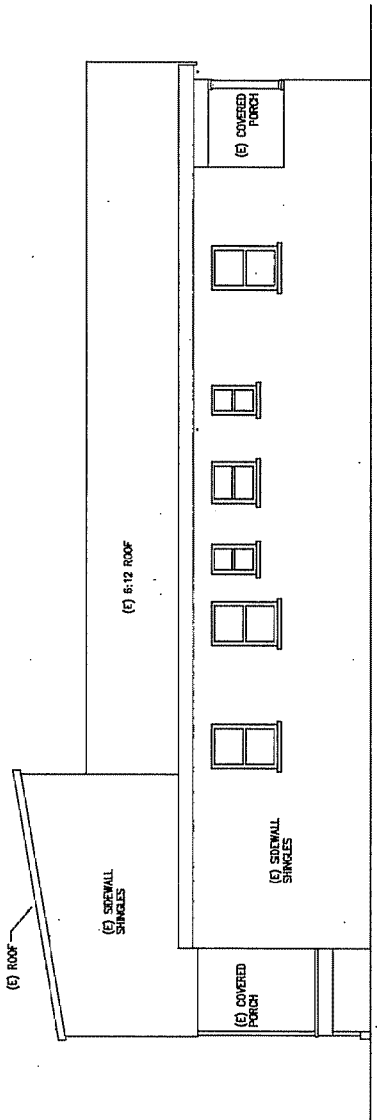
D PROPOSED NORTH ELEVATION
 1/4" = 1'-0"



B EXISTING NORTH ELEVATION
 1/4" = 1'-0"



C PROPOSED WEST ELEVATION
 1/4" = 1'-0"



A EXISTING WEST ELEVATION
 1/4" = 1'-0"

May 15, 2007

City Council
c/o City Clerk
City of Berkeley
2180 Milvia Street
Berkeley, CA 94709

CITY OF BERKELEY
CITY CLERK DEPT

07 MAY 15 PM 4:00

Re: Appeal of Notice of Decision of the Zoning Adjustments Board
1625 Berkeley Way, Use Permit #06-10000117

Honorable City Council:

We respectfully appeal the decision of the Zoning Adjustments Board to grant a use permit for a major second-story addition at 1625 Berkeley Way. We reside at 1623 Berkeley Way, and will be seriously impacted by this addition, which will be four to five feet higher than the partial second-story addition that already exists there. The addition will be built over the existing nonconforming structure, which sits two feet from our property line.

The ZAB decision did not provide any mitigation for the loss of sunlight, air, and privacy on our home. We feel that these are important and substantial impacts. While we do not object to our neighbor making better use of his home to accommodate his growing family, this could be done without significantly reducing the light, sunshine and privacy of our house and without creating a wind tunnel effect into our yard. There already is a partial second-story addition on their house, and the neighbor on our west side has also put up a very large second-story addition, so this new addition further boxes us in.

If the City is going to allow the Applicant to build just two feet from our property line in the setback area, it should at least minimize the increase in height. The Applicant's design never included the erection of story poles to test the height of the proposed addition. An addition that is four or five feet higher than their existing second story will have an even greater impact on us. We don't feel that the design needs to be so high. We believe that minor architectural modifications could be made to reduce the height of the proposed addition and line it up with the existing roof line, without reducing the proposed living space. Because story poles were never erected, we have had no opportunity to evaluate lower roof line designs.

We are in our mid-eighties, and spend much of our time at home. We are concerned about the noise and disruption during construction, and the high likelihood that the workers will trample on our plants and leave debris on our property, because the neighbor only has a two-foot wide space to work in between his house and the property line. The ZAB decision does not require the applicant to provide a specific construction management plan to keep debris from falling on our property, to control noise, and to protect our plants.

City Council
May 15, 2007
Page 2

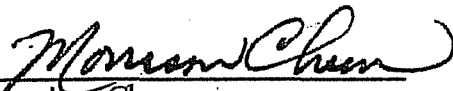
Although the Applicant's Statement acknowledged that there would be impacts and suggested that they would take modest steps to alleviate them such as painting their house a lighter color, and engaging a landscape gardener to develop a plant impact mitigation plan, these adjustments are not reflected in the Notice of Decision.

Unfortunately, my wife and I were out of the country and were unable to attend the ZAB hearing on April 12. *Had we been able to attend, we would have been able to emphasize these points and suggest these corrective measures:*

1. Lower the roof line of the proposed addition to be no higher than the existing partial second-story addition;
2. Include specific requirements in the use permit to control and muffle noise, to prevent debris from falling on our property, and screen dust from coming into our house;
3. Include a plant impact mitigation plan;
4. Paint the house a lighter, non-glaring color.

We respectfully request that the City Council set this matter for a public hearing. Even though the Applicant has not communicated with us about his plans except at the beginning of his project, we remain available to try to work something out.

Sincerely,

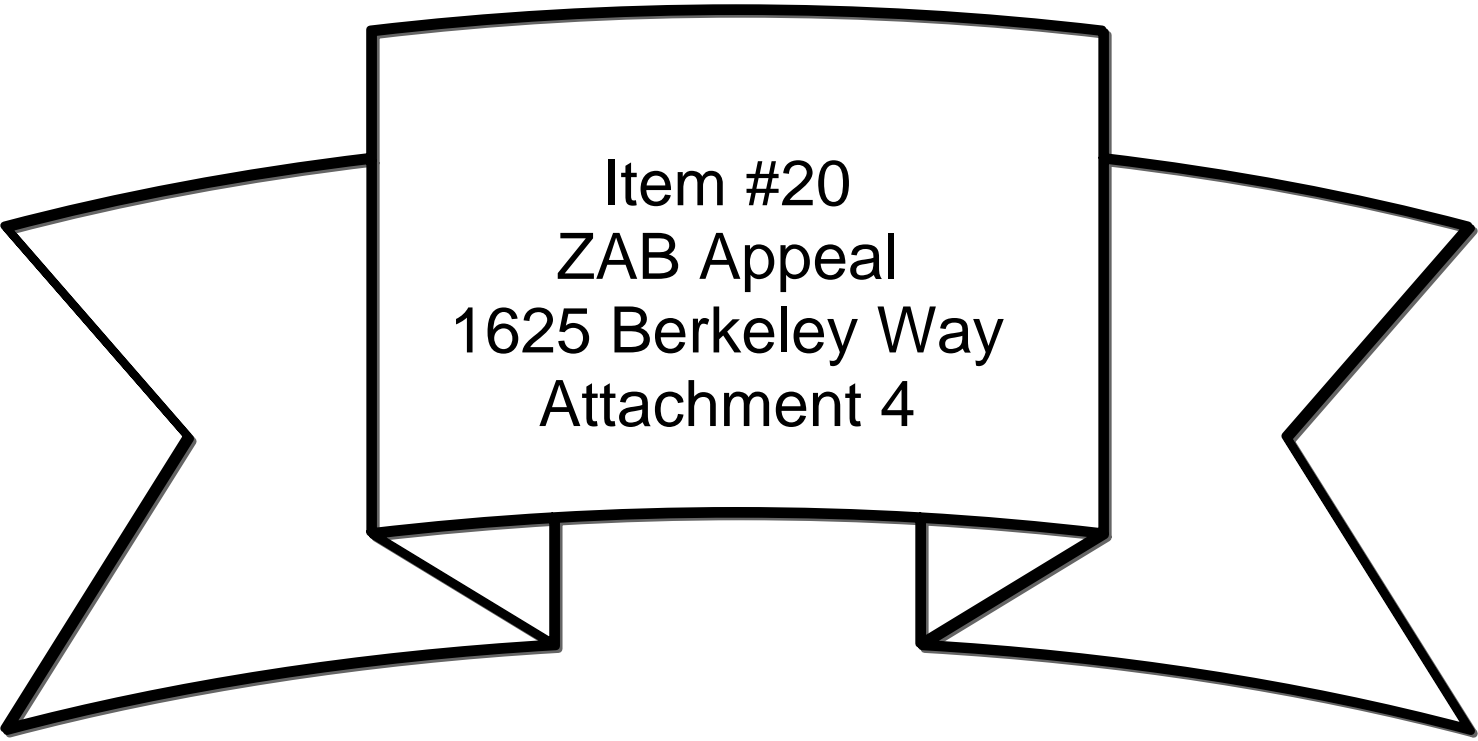

Morrison Chun

1623 Berkeley Way
Berkeley, CA 94703

510-845-4763

Attachment 3 - Index

| Administrative Record Index: 1625 Berkeley Way | | | |
|---|-------------|---|------------------------------|
| Note: "Date" refers to date received in Land Use Planning. If no date stamped, then the date on the actual document. | | | |
| Page # | Date | Item Description | From |
| 1 | No Date | Residential documentation for 1625 Berkeley Way | City of Berkeley |
| 8 | 09/18/06 | Letter to Zoning Staff re neighbor signatures | Jeff Stein |
| 9 | 09/18/06 | Shadow Study | Jeff Stein |
| 15 | 09/18/06 | Letter to Jeff Stein re 1625 Berkeley Way (600SF residential addition) | Katy Hollbacher |
| 16 | 09/18/06 | Zoning Application Form, Applicant Statement & property photos | Jeff Stein |
| 28 | 10/12/06 | Property Detail Report for 1625 Berkeley Way | RealQuest.com |
| 29 | No Date | Assessor's Map 57 | |
| 30 | 10/12/06 | Berkeley Parcel Conditions and Permit History | City of Berkeley |
| 31 | 10/15/06 | Photo of 1600 Block of Berkeley Way, looking north | |
| 32 | 10/16/06 | Letter to Jeff Stein re Project completeness - UP #03-10000117 | Christopher Wolf |
| 34 | 10/17/06 | Letter to Zoning Staff re Neighborhood signatures for Proposed Addition | Morrison Chun |
| 37 | 10/23/06 | Letter to ZAB re Project at 1625 Berkeley Way | Dea Lee Harrison |
| 40 | 10/26/06 | Permit Mediation Report | East Bay Community Mediation |
| 41 | 10/31/06 | Applicant Statement, site plan, tabulation form, shadow study, photos | Jeff Stein |
| 63 | 10/31/06 | Application for Additional Use Permits (#06-10000117) | |
| 66 | 03/12/07 | Letter to Christopher Wolf, including petition and assessor's map | Dea Lee Harrison |
| 77 | 03/29/07 | ZAB Notice of Public Hearing | |
| 88 | 04/02/07 | Letter to ZAB re Project at 1625 Berkeley Way | Morrison and Helen Chun |
| 91 | 04/10/07 | Letter re request for UP #06-10000117 letter to be distributed at ZAB | Judy Stamps |
| 96 | 04/12/07 | Email forwarded to Christopher Wolf from Debbie Sanderson | Deborah Pascoe Carswell |
| 97 | 04/12/07 | Letter to ZAB re USE #06-10000117-Permit for major residential addition | Steve Wollmer |
| 98 | 04/12/07 | ZAB Staff Report and Attachments | Christopher Wolf |
| 162 | 04/12/07 | Miscellaneous Correspondence to ZAB, including photos | Various |
| 186 | 04/12/07 | ZAB Speaker Cards | Various |
| 190 | 04/12/07 | ZAB extract of real-time closed captioner's transcript | |
| 249 | 04/19/07 | Email to Vicky Schlepp re: 1625 Berkeley Way use permit conditions | Debra Sanderson |
| 250 | 05/01/07 | Proof of Service re: UP #06-10000117 - 1625 Berkeley Way | Vicky Schlepp |
| 265 | 05/15/07 | Letter to City Council re: Appeal of NOD | Morrison Chun |
| 267 | 05/16/07 | Email to Allison Ealy, et al. re: ZAB Appeal: 1625 Berkeley Way | Pamyla Means |
| 268 | 05/31/07 | Response to Appeal ZAB Decision Use Permit #06-10000117 | Pamyla Means |



Item #20
ZAB Appeal
1625 Berkeley Way
Attachment 4

Attachment 4 to this report, ZAB Appeal 1625 Berkeley Way is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website.

City Clerk Department

2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

or from:

The City of Berkeley, City Council's Web site

<http://www.ci.berkeley.ca.us/citycouncil/>

May 15, 2007

City Council
c/o City Clerk
City of Berkeley
2180 Milvia Street
Berkeley, CA 94709

CITY OF BERKELEY
CITY CLERK DEPT

07 MAY 15 PM 4:00

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1625 Berkeley Way, Use Permit #06-10000117

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City Council
May 15, 2007
Page 2


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Unfortunately, my wife and I were out of the country and were unable to attend the ZAB hearing on April 12. Had we been able to attend, we would have been able to emphasize these points and suggest these corrective measures:

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We respectfully request that the City Council set this matter for a public hearing. Even though the Applicant has not communicated with us about his plans except at the beginning of his project, we remain available to try to work something out.

Sincerely,



Morrison Chun

1623 Berkeley Way
Berkeley, CA 94703

510-845-4763

Dea Lee Harrison

1627 Berkeley Way, Berkeley, CA 94703
(510) 841-4216 DL1934@AOL.com

September 10, 2007

City Clerk
2180 Milvia Street
Berkeley, CA 94704

To: City Council Members

Re: 1625 Berkeley Way **appeal of permit #06-1000017**,
City Council Meeting of September 18, 2007
Request to deny permit and/or reconfirm permit's conditions.

07 SEP 10 PM 2:44
CITY OF BERKELEY
CITY CLERK DEPT

1. **Lack of good faith.** I live to the east of the project at 1627 Berkeley Way. I am not the appellant. I opposed this project at the ZAB hearing but did not prevail. As a condition of the Stein permit I was given a skylight. The definition of skylight was left to the applicant, Jeff Stein, and me to determine. In an effort to accomplish that I tried to secure 3 bids for the project. The third bidder decided, after almost two weeks, not to bid and left me with two bids to discuss with Mr. Stein only 6 days before the deadline to appeal. I indicated to Mr. Stein that if we could not resolve the details and set a value on this before the deadline I would have no choice but to appeal. We came to an agreement, via email, on the Tuesday morning of the final appeal date. I did not file an appeal, but Mr. Stein has refused to sign our agreement as the neighbor on the other side of him, Mr. Chun, filed an appeal. Mr. Stein told me that I should persuade Mr. Chun to retract his appeal and then he, Jeff Stein, would sign our agreement. (See copy in file record.) To this date Mr. Stein has not made any indication that he will honor that agreement.
2. **Questionable advice.** I immediately consulted with Chris Wolfe, Associate Planner assigned to the project. I was told, on the day after the deadline when I realized my predicament, that I could not file an appeal because the deadline had passed but that I could speak at the appeal hearing. I was not notified of the appeal hearing date and did not find out until September 4, 2007. By then I had scheduled a trip to the East Coast the week of the hearing. Also I discovered that only the appellant and the applicant are allowed to speak.
3. **Continued opposition.** Although I negotiated for the skylight in good faith, I continue to believe the permit should not be issued.
 - a. This is not providing affordable housing. This is a family who already has a home, two employed professionals and sends their children to private school.

One ZAB member stated that the Berkeley flatlands were the only place young families could find affordable starter homes so when their families grew they should be allowed to add to them rather than being forced to move out of Berkeley. If all small homes, such as 1625, are turned into large homes where will new young families find these starter homes? There are alternatives, larger homes are available in the flatlands, I found 4 within four blocks of this project and listed at under \$850,000. Three sold for less than that.

- b. ZAB members observed that this addition was in keeping with the neighborhood homes. While it is true that we have two story homes on our block, the homes are on 50' wide lots. Mr. Stein's is only 30'. Also the other homes are not as close together. Mr. Stein's home is only 7.9' from mine.

- c. Berkeley code 23D.32.090 allows permit denial based on consideration of the loss of sunlight and air. The permit findings for this project appear to be made on the presumption that my whole house will not lose significant sun or light. Shadow studies indicate that I will lose 100% of the winter sun on the west side of my house and 50% in the summer. Staff report disregards that loss because my living room has "solar access". This is wrong. The living room sunlight is blocked due to a covered porch and a large tree. The kitchen/eating area on the west side of my home is the best solar collector.

The staff report says this project is okay because it effects my home only in the afternoon, my neighbor at 1623 only in the morning, implying that it would have to effect both sides of each home to be significant. If this is true the statute is useless for residential situations. Single home projects are rarely, if ever, built on both sides of a neighbor.

A ZAB member expressed enthusiasm for skylights. I accepted the offer of a skylight because I basically had no alternative and it will certainly be better than no skylight. However what I learned which applies to this situation is: "Don't expect a skylight to do a window's job. A well-placed window is inherently better at daylighting than a skylight since it automatically admits more low-angle winter sun when it's welcome, and blocks the high-angle summer sun when it's not needed. A typical skylight does just the opposite: being much closer to horizontal it tends to block the winter sun, yet lets the hot summer sun pour in just when you don't want it." (www.doityourself.com).

Conclusion

This project is detrimental and should have been rejected by ZAB. Should you decline to hear the Chun's appeal, please recognize that I have been precluded from appealing myself because of a lack of good faith by Mr. Stein. Please take action to remedy that by allowing me to appeal and/or reconfirming the conditions placed on the permit and require Mr. Stein to honor the agreement we reached.

Thank you,



Dea Lee Harrison

Applicant Response to Mr. Chun's Appeal of ZAB Decision Use Permit #06-10000117

Shortly after the Chun's appeal I arranged a series of meetings with the Chuns and their children to see if we could address their concerns. Here are the concerns they raised and how I attempted to address them:

Apple Tree - Morrie has complained in several meetings that the addition would affect the production of one of the apple trees in his backyard. I showed them a new animated SketchUp shadow study with the tree in question. The study shows unequivocally that the addition will have no shading effect on that tree. By the way, the other day my son accidentally knocked over the Chuns' non-recycling garbage. It was full of apples. So was their recycling bin.

Roof Slope – They asked if we could use a less steep roof to lower the height of the addition. I showed them the section below. It shows that they will only see the side of the house, not the peak of the roof. Thus the addition will appear lower than the existing addition, not “four or five higher”. Furthermore, this section shows that the roof slope is irrelevant because they cannot see the roof. I also showed them with the animated shadow study that the shading on their property is from the edge of the roof, not the peak, so roof slope has no effect on shading.

Scissor Truss – They asked if we could lower the addition by using a scissor truss and a vaulted ceiling, rather than conventional roof framing. I hired a structural engineer and architect to determine the architectural and cost impacts of scissor versus conventional trusses. He recommended the conventional approach because a scissor would make the attic unusable for storage or locating the heating furnace and it would only reduce the height by a few inches, which would not be noticeable by the neighbors. He said we could reduce a few inches by sistering the new floor joists with the existing 2x4 ceiling joists, rather than stacking them. He said this would have a modest cost impact, mainly on electrical wiring. I explained all this to the Chuns and offered to sister the joists but said I would not use scissor trusses. I also showed them a series of sections that showed that lowering the addition a few more inches would not really be noticeable.

Foundation Work – They were concerned that the foundation work would touch their property. I hired a structural engineer to design the foundation. His design calls for (2) 30 x 30 x 18” deep piers and (2) 21x21x18 piers. This requires holes extending about 2' from the house so the foundation work should not adversely affect their property. I also showed Morrie how the work was not adjacent to the Camilia trees, which he said are the only plants between our houses that he really cares about.

After addressing all their concerns they said “Well, we still think it will have a very detrimental effect on us. Why don't you offer to compensate us financially like you offered Dea Lee?” I explained that the effect on their house was much smaller than the effect on Dea Lee's house because their house is much further from mine and because the addition is adjacent to bedrooms in their house. By the way, they have never opened the shades in those rooms in the 10 years that we have been neighbors.

The fact is that the proposed addition meets all zoning requirements and the Chuns and their children are simply throwing out every roadblock they can think of (wind effects, story poles, falling debris, parking impacts, old age, etc.) and using all means available to them to thwart the project.

The Zoning Staff and the Zoning Board both agree that the proposed addition:

“...will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the

adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City...

“...The proposal would not create any significant additional shadowing effects on neighboring habitable structures...”

“...The project would not have significant privacy effects ...”

Figure 1 - East West Section through Proposed Addition and Chun House

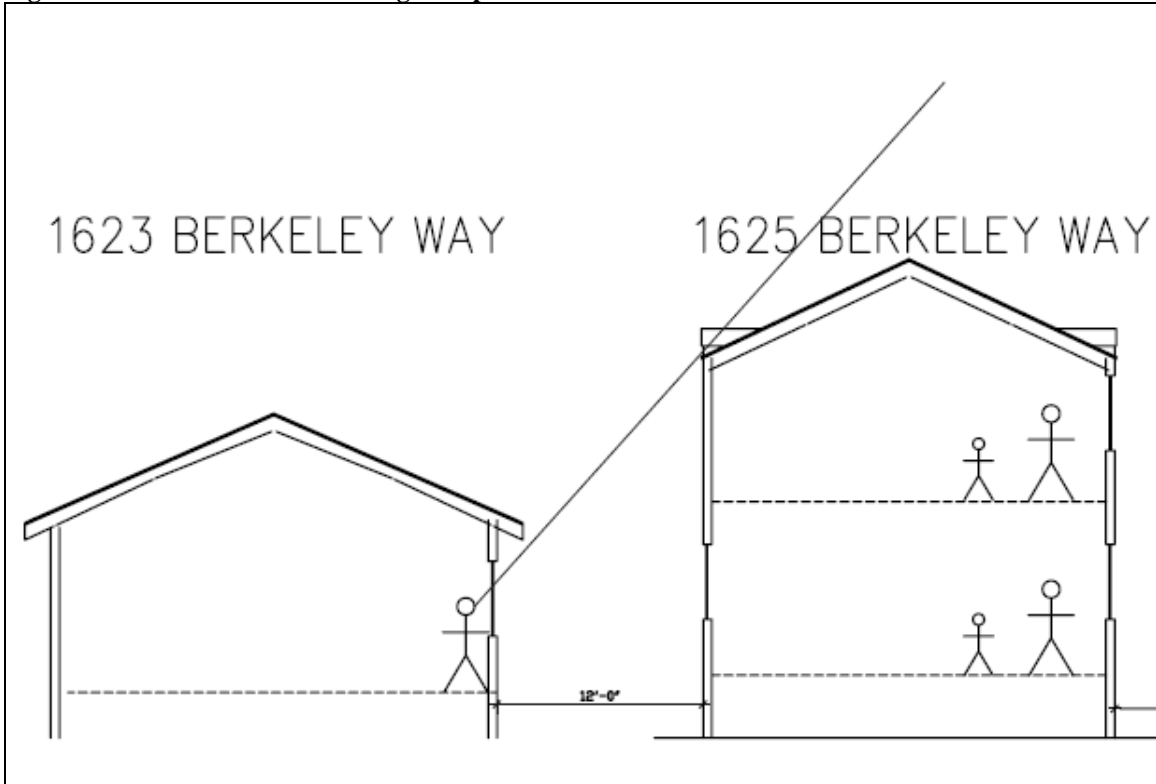


Figure 2. Same Section with Scissor Truss (Lower Addition)

