



Planning and Development Department
Land Use Planning Division

Action Minutes

Zoning Adjustments Board

Thursday, June 14, 2007 -- 7:00 pm

City Council Chambers, 2134 Martin Luther King Junior Way.
Berkeley, CA 94704 (Wheelchair Accessible)

Public Testimony Guidelines

The Board Chair may limit the number of speakers and the length of time allowed to each speaker. To speak at a public hearing, complete a speaker card and submit to Planning Staff (1) at the public hearing, by 7:15 PM on the night of the hearing, or (2) at the Permit Service Center, 2120 Milvia Street, **before** 5:00 PM on the day of the hearing.

The Board encourages the public to submit comments in writing or by email, in advance of the meeting. See **Correspondence and Notice of Decision Requests** at the end of this Agenda for procedures.

Planning and Development Department, Land Use Division

Roll Call: 7:00 PM

**Present: J. Anthony, T. Doran, R. Allen, R. Judd, C. Tiedemann, S. Wilson,
S. Shumer (arrived at 7:10 PM), M. Cohen, J. Arreguin**

Public Attendance: ~35

Public Comment

One speaker (5/24/2007)

Each Speaker is limited to a maximum of three minutes.

Consent Calendar:

The Consent Calendar allows the Board to take action with no discussion, on projects to which no one objects. The Agenda includes two types of Consent Calendar items: (1) Modifications of existing Use Permits (which have not been noticed for public hearings); (2) Items being continued to another meeting (Board action has been postponed to another meeting). The Board Chairperson will announce items for the Consent Calendar at 7:05 p.m. The Board may place additional Agendized items on the Consent Calendar, if no one present wishes to testify on an item. Anyone present who wishes to speak on an item should raise his or her hand and advise the Chairperson, and the item will be pulled from the consent calendar. Modification Projects may be discussed by the Board at this meeting or set for a public hearing at a later meeting. Items already noticed for a public hearing will be heard following Continued Items, or, if necessary, posted for a public hearing at a subsequent meeting.

Agenda Changes

The Board Chair may reorder the agenda at the beginning of the meeting.

2747 San Pablo Avenue was scheduled for this meeting of June 14, 2007 but has been rescheduled to June 28, 2007.

2008 Virginia has changed, to the satisfaction of the neighbors. The changes required an additional Use Permit to horizontally extend an existing non-conforming front and rear yard setbacks. Staff has reposted the project for the 6/28/07 ZAB meeting. Staff will include the revised plans in your next packet.

Appeal of Administrative Use Permit:

Appeals of Administrative Use Permit are not subject to public hearing and no public testimony will be taken at this time. The Board may set the matter for public hearing, or affirm the Zoning Officer's decision.

1. 921 Ensenada Avenue

Applicant: Zhitong Zhang 7227 Potrero Ave. El Cerrito, CA 94530

Appellant: Alan and Shelley Altura 914 Modoc Street Berkeley, CA 94707

Appeal of Administrative Use Permit #06-20000178 to construct a major residential addition, via expanding the footprint of the building by 450 sq. ft., and by constructing a 1,084 sq. ft. partial second story, setback approximately 15' from the front of the house, with an average height of 24'; (R-1 Single-Family Residential, NFD)

Continued From: None

Recommendation: Deny Appeal

Action: Set for Public Hearing (8-1-0-0) (No: R. Allen)

Continued Items (Public Hearing has been closed):

2. 2008 Virginia Street

Applicant: Lorin Hill, Architect; 6573 Shattuck Avenue, Oakland, CA

Appellants: Ray Oyung, 1703 & 1705 Milvia Street, Berkeley CA 94709; Josh and Josie Gallup, 1709 Milvia Street, Berkeley CA 94709; Cheryl Bergstorm, 1711 Milvia Street # A, Berkeley CA 94709; Hallie Frazer, 1711 Milvia Street # B, Berkeley CA 94709; and Rosemary Dady, 2004 & 2006 Virginia Street, Berkeley CA 94709

APPEAL of Administrative Use Permit #06-20000113 to construct a 1,434 sq. ft. addition, via raising the existing structure approximately 6' to create habitable space on the ground level, and by expanding the footprint of the building thereby creating a two-story, west wing appendage to the building (Restricted, Multiple Family Residential, R-2A, ND).back (R-1 (H), Single-family Residential – Hillside Overlay, ND).

Continued From: 03/22/07, 04/12/07, 05/24/07

Recommendation: Deny appeal and uphold Zoning Officer's decision to approve the project with minor modifications

Action: No action. Project has been redesigned, reposted for 6/28/07.

Continued Public Hearings:

3. 1300 Monterey Avenue

Request by: Sunny Grewal, Studio G+S Architects, 2223 5th Street, Berkeley, CA 94710.

Use Permit #06-10000072 to remove an existing, detached garage, construct an attached garage and expand the floor area of an existing four unit building, (R-2, Restricted Two-Family Residential, GP/JL).

Continued From: 05/24/07
Recommendation: Approve
Action: Approved with changes (9-0-0-0)

Nuisance Proceedings: None

New Hearings:

4. 2746 Garber Street

Applicant: Shawn Smith, Architect, Fargo Farnesi, Inc. 2119 West Street, Berkeley, CA 94702.

Use Permit #07-100000035 to partially demolish a 1,369 square foot duplex and consolidate into a single unit, and reconstruct a two-story unit at the rear of the building. (R-2, Restricted Multi-Family Residential, GMS/TG)

Continued From: None
Recommendation: Approve
Action: Approved (9-0-0-0)

5. 2312 Telegraph Avenue

Applicant: Rena Rickles, 1970 Broadway, Suite 940, Oakland, CA 94612

Use Permit #07-10000026 to allow carry-out food service (no seating) in a new retail food market (allowed by right); main floor area is 3,571 sq. ft.; no parking required. (C-T, Telegraph Avenue Commercial; AS/TG)

Continued From: None
Recommendation: Approve
Action: Approved (9-0-0-0)

Additional Agenda Items:

- A. Information/Communication
- B. Business Meeting
- C. Chair's Report
- D. Current Business/Committee Appointment
- E. Future Agenda Items
- F. Other Matters

G. Adjourn **7:50 PM**

Correspondence and Notice of Decision Requests

- To distribute correspondence to Board members **prior to the meeting date** -- submit comments **by 12:00 noon, seven (7) days before the meeting**. Please provide 15 copies of any correspondence with more than ten (10) pages.
- Any correspondence received after this deadline will be given to Board members on the meeting date just prior to the meeting.
- Staff will not deliver to Board members any additional written (or email) materials received after 12:00 noon on the day of the meeting.
- Members of the public may submit written comments themselves early in the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Zoning Adjustments Board Clerk just before or at the beginning of the meeting.
- Written comments, or a request for a Notice of Decision should be directed to the ZAB Secretary at Land Use Planning Division (Attn: ZAB Secretary)
2120 Milvia Street, Berkeley, CA 94704 OR at zab@ci.berkeley.ca.us

Communication Access

To request a meeting agenda in large print, Braille, or on cassette, or to request a sign language interpreter for the meeting, call the Current Planning Division at 981-7410 (voice) or 981-7474 (TDD); at least five (5) working days notice will ensure availability.

Legal Notice Concerning Your Legal Rights

If you object to a decision by the Zoning Adjustments Board to approve or deny a permit or variance for a project, the following requirements and restrictions apply:

1. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Current Planning Division in writing to receive a Notice of Decision when it is completed.
2. Pursuant to Code of Civil Procedure, Section 1094.6(b), no lawsuit challenging a City Council decision to deny a permit or variance may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure, Section 1094.6(b), which has been adopted by the City. Any lawsuit not filed within that ninety (90) day period will be barred.
3. Pursuant to Government Code, Section 65009(c)(5), no lawsuit challenging a City Council decision to approve (with or without conditions) a permit or variance may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure, Section 1094.6(b), which has been adopted by the City. Any lawsuit not filed within that ninety (90) day period will be barred.
4. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:
 - A. That this belief is a basis of your appeal.
 - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
 - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

[Approved for posting by Debra R. Sanderson, Secretary, Zoning Adjustments Board, 6/18/07.]