



Planning and Development
Department
Land Use Planning Division

Action Minutes

Zoning Adjustments Board

Thursday, June 28, 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, B.Allen, R.Judd, C.Tiedemann, S.Shumer, M.Cohen,
J.Arreguin**

Absent: S.Wilson (filled in by substitute J.Martinucci)

Approximate Public Attendance: 80

Public Comment: None

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.

Item 6. 2555 Rose Walk moved to Consent Calendar

1. 2101 Milvia Street

Applicant: Samei Affeni, 2101 Milvia Street, Berkeley, CA
Use Permit Modification 07-70000012 to extend the hours of an existing quick-service restaurant to the district limitation; (C-2, Arts Overlay, FC)

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

Agenda Changes

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

Placed Continued Public Hearings (2008 Virginia Street) AFTER Compliance Determination (2100 San Pablo U-Haul Project).

Appeal of Administrative Use Permit: NONE

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.

Continued Items (Public Hearing has been closed): NONE

Continued Public Hearings:

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, Berkeley CA; 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)

Continued From: 03/22/07, 04/12/07, 05/24/07
Recommendation: Approve Revised Project
Action: Approved with Staff Recommendations (6-2-1-0)
(No: S. Shumer, J. Arreguin; Abstain: J.Martinucci)

Compliance Determination:

3. 2100 San Pablo U-Haul Project

Request By: City of Berkeley Code Enforcement Division.

Public Hearing to Consider Recommendation to City Council as to whether the U-Haul business at 2100 San Pablo Avenue is in Violation of Use Permit #7575 Under BMC Section 23B.60.020 and, if so, determine the appropriate remedy. (C-W, West Berkeley Commercial; GD)

Continued From: None

Recommendation: Conduct Public Hearing and make recommendation to City Council

Action:

Recommends to revoke Use Permit #7575. (9-0-1-0) (Abstain: J. Arreguin)

New Hearings:

4. 2747 San Pablo

Applicants: David Mayeri & Laura Billings, 1300 Clay St., Suite 600, Oakland, CA 94614
Use Permit #06-10000109 to demolish existing building and construct a 5-story mixed use building (average height of 51'11") with 39 residential condo units (38,205 sq. ft.), a café (1,500 sq. ft.), either retail space or two live/work units (2,342 sq. ft.), and 49 parking spaces, on a 17,386 square-foot lot. (C-W, West Berkeley Commercial; CW/AS)

Continued From: None

Recommendation: Approve

Action: Approved (7-1-1-0) (No: R. Judd; Abstain: J. Arreguin)

5. 2216 Ninth

Applicant: William Coburn, 1224 Center Street, Oakland, CA 94607

Use Permit #07-10000042 to construct a 2-story 1,108 sq. ft. dwelling unit at the rear of a 5,200 square foot lot with 1 existing dwelling unit; and to reduce the rear yard setbacks for the new unit. (R-1A, Limited Two-Family Residential; FC/TG)

Continued From: None

Recommendation: Approve

Action: Approved (7-0-2-0) (Abstain: S.Shumer, J. Arreguin)

6. 2555 Rose Walk

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Applicants: Debra Contreras, Regan Bice Architects, 950 Grayson Street, Berkeley, CA 94710

Use Permit # 07-10000065 to construct a 400 square foot addition to an existing single-family dwelling in the rear yard setback and on a lot that is non-conforming to residential density. (R1-H, Single-Family Residential, Hillside Overlay; JL/CW)

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

7. **1912 Sacramento**

Applicants: Mr. Eric Hsu and Ms. Ellen Rigsby, 1912 Sacramento Street, Berkeley, CA 94702

Use Permit #05-10000108 to construct a new two-story detached single-family dwelling unit with an area of approximately 1,028 square feet, and eliminate one dwelling unit in an existing duplex. (R-2A, Restricted Multiple-Family Residential; CW)

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

8. **2721 Shattuck Ave.**

Applicant: Nextel Communications, C/o Mr. Corey Alvin, KDI Land Use Planning, 855 Folsom Street, Suite 106, San Francisco, CA 94107.

Use Permit #04-10000068 to construct a new wireless telecommunications facility (including six antennas and related equipment) for Nextel Communications. (C-SA, South Area Commercial District; CW)

Continued From: Remanded by Council on 05-22-07
Recommendation: Approve
Action: Denied (5-4-0-0) (No: T.Doran, B.Allen, R.Judd, J.Martinucci)

9. **2721 Shattuck Ave.**

Applicant: Verizon Wireless, C/o Mr. James Singleton, Cal Com Systems, Inc., 2001 Omega Road, Suite 100, San Ramon, CA 94583.

Use Permit #05-10000033 to construct a new wireless telecommunications facility (including five antennas and related equipment) for Verizon Wireless (C-SA, South Area Commercial District; CW)

Continued From: Remanded by Council on 05-22-07
Recommendation: Approve
Action: Denied (5-4-0-0) (No: T.Doran, B.Allen, R.Judd, J.Martinucci)

Additional Agenda Items:

- A. Information/Communication
- B. Business Meeting

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- C. Chair's Report
- D. Current Business/Committee Appointment
- E. Future Agenda Items
- F. Other Matters
- G. Adjourn **11:45 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

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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, June 29, 2007.]