



Planning and Development
Department
Land Use Planning Division

Action Minutes

Zoning Adjustments Board

Thursday, July 26, 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: @ 7:05 PM

Present: J. Anthony, T. Doran, B. Allen, R. Judd, C. Tiedemann, S. Shumer, J. Arreguin

Substitutes: M. Mitchell for M. Alvarez-Cohen.

Absent: S. Wilson

Public Comment: 3 speakers

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.

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Item 1. 1094 Dwight Way moved to Consent Calendar.

Item 3. 2525 Telegraph Ave. moved to Consent Calendar.

Item 6. 2331 Jefferson Ave. moved to Consent Calendar.

Item 7. 39 Canyon Rd. moved to Consent Calendar.

Agenda Changes

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

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: NONE

Compliance Determination: NONE

New Hearings:

1. 1094 Dwight Way

Applicant: Hal Brandel, 1094-1096 Dwight Way, Berkeley, CA 94710

Use Permit # 07-0000062 to add beer and wine service to an existing full service restaurant. (C-W, West Berkeley Commercial District; **TG/CW**)

Continued From: None

Recommendation: Approve

**Action: Approved on Consent (8-0-0-1)
(Absent: S. Wilson)**

2. 1423 Kains Ave

Applicant: Ali Eslami, Telegraph/Regent LLC, P.O. Box 4623, Berkeley, CA 94704

Use Permit #07-10000045 to reconfigure an existing 3-story, 4-unit residential building that is non-conforming for front and side yards, lot coverage and density on a 3,800 square foot lot; 4 parking spaces proposed in new detached garage; (R-2, J. Levine/AS)

Continued From: None

Recommendation: Approve

Action: Approved (7-0-1-1) (Abstain: J. Arreguin; Absent: S. Wilson)

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3. 2525 Telegraph Ave

Applicant: Ali Eslami, Telegraph/Regent LLC, P.O. Box 4623, Berkeley, CA 94704

Use Permit #07-10000055 to convert two adjacent commercial spaces, previously used for a restaurant and an oxygen bar/retail space, into one 5,803 square foot space to be used for a restaurant and an art gallery, with service of distilled spirits, operating hours of 6:30 a.m. to 2:00 a.m. daily, and occasional live entertainment. (C-T, Telegraph Ave. Commercial, CW/JL)

Continued From: None
Recommendation: Approve
Action: Continued to August 9, 2007 on Consent (8-0-0-1) (Absent: S. Wilson)

4. 2323 Shattuck Ave

Applicant: Jim Novosel, Bay Architects. 1840B Alcatraz Ave. Berkeley, CA 94703

Use Permit and Variance #06-10000148 to convert an existing 4,000 sq.ft. landmark office building into a restaurant with beer and wine service plus one dwelling unit; to allow sidewalk café seating; remove 8 existing parking spaces; to construct a new 5-story mixed-use building with 2,609 sq.ft. of commercial floor area and 15 dwelling units. (C-2, SDR/ASC)

Continued From: None
Recommendation: Deny
Action: Continued to August 9, 2007 (5-2-1-1) (No: J. Anthony, B. Allen; Abstain: T. Doran; Absent: S. Wilson)

5. 1924 Haste Street

Applicant: Greg VanMechelen, 1117 Virginia St., Berkeley, 94702

Use Permit #06-10000038 to add 2 dwelling units to ground floor of existing 4-unit, 3-story apartment building, raise building by about 4 feet, and increase floor area by 185 square feet; 6 parking spaces proposed on 6,750 square foot lot; (R-4, Multi-family Residential; AS)

Continued From: None
Recommendation: Approve
Action: Continued to September 10, 2007 (8-0-0-1)

6. 2331 Jefferson Ave

Applicant: Michael Bradley, 2331 Jefferson St., Berkeley, CA

Use Permit #07-10000021 to create a duplex by constructing a new dwelling unit as a building addition to an existing single-family residence. (R-2, FC)

Continued From: 07/12/2007
Recommendation: Deny
Action: Continued off calendar on Consent (8-0-0-1) (Absent: S. Wilson)

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7. 39 Canyon Road

Applicant: Raymond Mathis, 39 Canyon Road, Berkeley, CA

Use Permit #07-10000050 to construct a new, 2-vehicle carport over an existing parking pad within a required front yard setback (ES-R, FC).

Continued From: None

Recommendation: Approve

**Action: Approved on Consent (8-0-0-1)
(Absent: S. Wilson)**

8. 630 Hilldale Ave

Applicant: Xo Larimer, 630 Hilldale Avenue, Berkeley, CA

Use Permit #07-10000076 to legalize demolition of a single-family residence and accessory dwelling unit, to rebuild that structure within the same non-conforming building footprint, and to include a new 7.5-ft. fence within the front yard setback; (R-1 (H), FC)

Continued From: None

Recommendation: Approve

Action: Approved (8-0-0-1) (Absent: S. Wilson)

Additional Agenda Items:

A. Information/Communication

- 1421 Second Street: Informational Staff Report for Pacific Steel Casting.
- 2844 Derby Street: Informational Staff Report

3 public comments made; continuance for another informational staff report for August 9, 2007.

B. Business Meeting

C. Chair's Report

D. Current Business/Committee Appointment

E. Future Agenda Items

F. Other Matters

G. Adjourn @ **10:20 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

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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, 8/2/07]