



Planning and Development
Department
Land Use Planning Division

Action Minutes

Zoning Adjustments Board

Thursday, October 25, 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. Wilson, S. Shumer,
M. Alvarez-Cohen, J. Arreguin (@ 7:03 PM)

Public Attendance: ~15

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.

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):

1. 1505 Shattuck Avenue

Applicant: Mr. Allen Connolly, 1505 Shattuck Avenue, Berkeley, CA 94709

Use Permit and Variance #04-10000075 to demolish two commercial buildings totaling 1,765 square feet (the single-story building located at 1505 Shattuck Avenue and a single story storage building located at the rear of the site) and construct a new 4,820 square foot two story mixed-use building (retail on the lower level and one (1) dwelling unit on the upper level) (C-NS North Shattuck Commercial) District, C. Wolf)

Continued From: 09/27/2007, 10/11/2007

Recommendation: Approve revised findings and conditions.

Action: Approved revised findings and conditions (8-0-1-0; Abstain: R.Judd)

Continued Public Hearings:

2. 2837 Fulton Street

Applicant: Mr. Ken Lowney, AIA, Lowney Architecture, 1440 Broadway Street, Suite 715, Oakland, CA 94612

Use Permit #06-10000128 to construct a detached single-family dwelling unit at the rear of a lot with an existing single-family dwelling unit, and reduce the rear yard setback for the new dwelling unit; (Restricted Two-Family Residential (R-2) District, C. Wolf)

Continued From: 09/27/2007

Recommendation: Approve

Action: Approved with revised condition (8-1-0-0; No: J.Arreguin)

Compliance Determination: NONE

New Hearings: NONE

Zoning Adjustments Board ACTION MINUTES

Thursday, October 25, 2007

Page 3 of 4

Additional Agenda Items:

- A. Information/Communication
 - **Ms. Sanderson announced that Steven Ross was recently promoted to Principal Planner, and will be gradually taking over her duties as ZAB Secretary.**
 - **The Board recognized that it was Chair Tiedemann's last meeting, and thanked her for her excellent service; Ms. Sanderson noted that her replacement would attend the next meeting, and that ZAB would elect a new Chair.**
- B. Business Meeting
- C. Chair's Report
- D. Current Business/Committee Appointment
- E. Future Agenda Items
- F. Other Matters
- G. Adjourn **8:15 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 e-mail) 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

Zoning Adjustments Board ACTION MINUTES

Thursday, October 25, 2007

Page 4 of 4

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 Steven D. Ross, Secretary, Zoning Adjustments Board]