



Action Minutes

Planning & Development
Department
Land Use Planning
Division

Zoning Adjustments Board Thursday, May 27, 2010, 7:00 pm

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

How to Contact Us: Land Use Planning Division (Attn: Steven Buckley, ZAB Secretary), 2120 Milvia Street, Berkeley, CA 94704; (510) 981-7410; zab@ci.berkeley.ca.us

Roll Call: 7:12PM

Present: B. Allen, J. Anthony, T. Clarke, M. Cohen, D. Matthews, E. Mikiten,
S. Shumer, G. Williams,

Excused: D. Koon

Substitutions: None

Public Attendance: 6

Number of Speakers: 5

Ex Parte Communication Disclosures

NONE

Public Comment

NONE

Agenda Changes

NONE

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Consent Calendar:

1.	Approval of Previous Meeting Minutes	
	Minutes from 05/13/10 meeting	
	Recommendation:	APPROVE
	Action	APPROVE
	Motion:	B. Allen, G. Williams
	VOTE:	6-0-2-1 (Abstention: T. Clarke, M. Cohen; Excused: D. Koon)

2.	1122 University Avenue	
	<p>Use Permit #09-10000106 to 1) allow a 2,273 sq. ft. café, with hours to not exceed 7:00 AM to 2:00 PM daily; and 2) modify Use Permit #08-70000004 to expand the conditions of approval to allow the dwellings to be rented as well as sold. (Zoning: Residential Uses (R-3) District)</p>	
	<p>Applicant: Alex Varum, 480 Arlington Ave., Berkeley, CA 94707 Property Owner: 1122 University LLC, 480 Arlington Ave., Berkeley, CA 94707</p>	
	Continued From:	NONE
	Recommendation:	APPROVE pursuant to Findings and Conditions
	Action	APPROVE
	Motion:	B. Allen, G. Williams
	VOTE:	6-0-2-1 (Abstention: T. Clarke, M. Cohen; Excused: D. Koon)

Appeal of Administrative Use Permit/Staff Level Design Review:

NONE

Compliance Determination:

NONE

Continued Items (Public Hearing has been closed):

NONE

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Continued Public Hearings:

3.	<p>2928 Otis Street Use Permit #09-1000076 to construct a three-story, 27-foot tall, single-family dwelling with 2,427 square feet and a 6-foot rear setback behind an existing single-family dwelling on a 5,022.5 square-foot lot; two standard (non-tandem) parking spaces proposed. (Zoning: Multi-Family Residential (R-4) District)</p>
	<p>Applicant: David Soffa, 2926 Otis St., Berkeley Appellant: David Soffa, Theresa Clarke, and Madeleine Clarke, 2926 Otis St., Berkeley</p>
	<p>Continued From: NONE</p>
	<p>Recommendation: APPROVE subject to the Findings and Conditions</p>
<p>Number of Speakers: 5</p>	<p>Action: APPROVE as recommended by staff with 10-ft. setback Motion: G. Williams, J. Anthony VOTE: 5-0-2-2 (Abstention: S. Shumer; Excused: D. Koon; Recused: T. Clarke, E. Mikiten)</p>

New Hearings:

NONE

Additional Agenda Items:

- A. Information/Communication
- B. Business Meeting
 - **Staff / Board Discussion related to Detriment and Design Review**
- C. Chair's Report
- D. Current Business/Committee Appointment
- E. Future Agenda Items
- F. Other Matters
 - **City and Department Budget**
 - T. Clarke and M. Cohen excused
- G. Future Council Hearings on ZAB decisions
 - **June 1, 2010 - 3022 Harper** – Appeal of ZAB decision to uphold Zoning Officer's approval of an Administrative Use Permit for an accessory building

Adjourn: 9:03PM

[Approved for posting by Steven Buckley, Secretary, Zoning Adjustments Board]

Correspondence and Notice of Decision Requests

- Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.
- **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 or if in color or photographic format.
- Correspondence received by the 5:00 pm Tuesday before the meeting will be posted on the ZAB web site for review by the Board and public prior to the meeting. Correspondence received later, and after the meeting, will be posted to the web site following the meeting.
- Correspondence received by the 5:00 pm Tuesday before the meeting will be posted on the ZAB web site for review by the Board and public prior to the meeting. Correspondence received later, and after the meeting, will be posted to the web site following the meeting.
- 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: Steven Buckley, ZAB Secretary), 2120 Milvia Street, Berkeley, CA 94704 OR at zab@ci.berkeley.ca.us



Accessibility Information / ADA Disclaimer

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

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SB 343 Disclaimer

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Permit Service Center, Planning and Development Department located at 2120 Milvia Street, Berkeley, during regular business hours.

Legal Notice Concerning Your Legal Rights

If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Adjustments Board at, or prior to, the public hearing.
2. 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 Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit 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). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit 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). Any lawsuit not filed within that ninety (90) day period will be barred.
5. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
6. 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.

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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.