



Action Minutes

Planning & Development
Department
Land Use Planning
Division

Zoning Adjustments Board Thursday, June 10, 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: 7:02PM

Present: E. Kopelson, G. Williams, B. Allen, D. Matthews, M. Cohen, S. Shumer, T. Turman

Excused: J. Anthony, D. Koon

Substitutions: T. Turman substitution for E. Mikiten

Public Attendance: 21

Number of Speakers: 16

Ex Parte Communication Disclosures

In the context of adjudicative matters that come before the ZAB, ex parte communications are those which occur outside the formal hearing process. ZAB members should avoid ex-parte contacts on matters pending before the ZAB as much as possible, as they may represent, or be perceived to represent, the receipt of evidence that can unfairly influence a Board member's decision on a matter before the Board. If such contacts do occur, they must be placed in the record and disclosed to all interested parties sufficiently in advance of the decision to allow rebuttal.

G. Williams – site visit and exchanged pleasantries with Rock Lane applicants and appellants

B. Allen – conversations with the appellants and applicant of Rock Lane

S. Shumer – site visits and conversations with applicant and appellant for Rock Lane

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Public Comment

Each Speaker is limited to a maximum of three minutes.

- **NONE**

Agenda Changes

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

- **ITEM #4 added to consent calendar for approval**

Consent Calendar:

The Consent Calendar allows the Board to take action with no discussion, on projects to which no one objects. The Agenda includes three types of Consent Calendar items: (1) Approval of previous meeting minutes; (2) Modifications of existing Use Permits (which have not been noticed for public hearings); (3) 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 pm. The Board may place additional Agenda 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.

1.	Approval of Previous Meeting Minutes
	Minutes from 05/27/10 meeting
	Recommendation: APPROVE
	Action: APPROVED
	Motion: M. Cohen, S. Shumer
	VOTE: 5-0-2-2 (Abstain: E. Kopelson, T. Turman; Absent: J. Anthony, D. Koon)

Appeal of Administrative Use Permit/Staff Level Design Review:

Appeals of Administrative Use Permit and Design Review applications 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 or Design Review Secretary's decision.

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<p>2.</p>	<p>35 Rock Lane Appeal of Administrative Use Permit #09-20000090 to construct a new third story of approximately 583 sq. ft. on an existing two-story, approximately 1,589-sq. ft. single-family residence. (Zoning: R-1(H) – Single-Family Residential, Hillside District; Planner: Steven Buckley)</p>
	<p>Applicant/Property Owner: Phillip Moss, 912 Santa Fe Avenue, Albany, CA 94706 for James and Heidi Meyer, 35 Rock Lane, Berkeley, CA 94708 Appellant: Steven Rood, Esq., 405 14th Street, Suite 212, Oakland, CA 94612 for Iris X. Wang and Jiankang Liu, 43 Rock Lane, Berkeley, CA 94708 Appellant: Margaret Paternek, 55 Rock Lane, Berkeley, CA 94708</p>
	<p>Continued From: 4/22/2010</p>
	<p>Recommendation: APPROVE the project and dismiss appeals</p>
<p>Number of Speakers: 8</p>	<p>Action: APPROVE proposal at the front of the property with the removal of chimney Motion: B. Allen, E. Kopelson VOTE: 5-2-0-2 (No: D. Matthews, S. Shumer; Absent: J. Anthony, D. Koon)</p>

Continued Items (Public Hearing has been closed):

- NONE

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Continued Public Hearings:

3.	2307-09 California Street	<p>Use Permit #08-10000097 to renovate an existing one-story duplex, including the construction of a new, approximately 746-square-foot second story on a property that is non-conforming for residential density. (Zoning: C-NS, North Shattuck Commercial District; Planner: Leslie Mendez)</p>	
		Applicant/Property Owner: Edward Soos, 2303 California Street, Berkeley, CA 94703	
		Continued From:	04/08/2010
		Recommendation:	APPROVE pursuant to Findings & Conditions
Number of Speakers: 2		Action:	APPROVE
		Motion:	S. Shumer, M. Cohen
		VOTE:	6-0-1-2 (Abstain: E. Kopelson; Absent: J. Anthony, D. Koon)

Compliance Determination:

- NONE

New Hearings:

4.	2130 Oxford Street	<p>Use Permit # 10-10000036 to establish beer and wine service with meals within an existing quick-service restaurant space. (Zoning: C-2, Central Commercial Area; Planner: Nathan Dahl)</p>	
		Applicant: Oxford Development Group, 1442 A Walnut Street #116, Berkeley CA, 94709	
		Continued From:	NONE
		Recommendation:	APPROVE pursuant to Findings & Conditions
		Action:	Under Consent Calendar for approval
		Motion:	M. Cohen, S. Shumer
		VOTE:	5-0-2-2 (Abstain: E. Kopelson, T. Turman; Absent: J. Anthony, D. Koon)

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5.	2940 Benvenue Avenue	<p>Use Permit #10-1000027 to construct an addition of 340 square feet to the existing Claremont Branch Library, and make other interior and exterior improvements. Includes modification of parking and lot coverage requirements, subject to City Council approval of a zoning amendment.</p> <p>(Zoning: R-2A, Restricted Multiple-Family Residential; Planner: Aaron Sage)</p>	
		<p>Applicant: Steven Dewan, c/o Berkeley Public Library, 2090 Kittredge Street, Berkeley</p> <p>Property Owner: City of Berkeley</p>	
		Continued From:	NONE
Number of Speakers: 4		Recommendation:	NO ACTION REQUIRED - this is a "preview" to solicit ZAB and community input on the project

6.	1170 The Alameda	<p>Use Permit #10-1000028 to construct an addition of approximately 4,000 square feet to the existing North Branch Library. Includes modification of parking and lot coverage requirements, subject to City Council approval of a zoning amendment.</p> <p>(Zoning: R-1, Single Family Residential; Planner: Aaron Sage)</p>	
		<p>Applicant: Bob Fuselier, c/o Berkeley Public Library, 2090 Kittredge Street, Berkeley</p> <p>Property Owner: City of Berkeley</p>	
		Continued From:	NONE
Number of Speakers: 2		Recommendation:	NO ACTION REQUIRED - this is a "preview" to solicit ZAB and community input on the project

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

Adjourn: 8:56PM

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

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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.
- 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

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), and 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.
4. 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.

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5. 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.