MEETING SUMMARY

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, MAY 22, 2003
7:00 PM

CITY COUNCIL CHAMBERS, OLD CITY HALL
2134 MARTIN LUTHER KING JUNIOR WAY
BERKELEY, CALIFORNIA 94704

CONSENT CALENDAR PROCEDURES

Due to the length of the Zoning Adjustments Board agenda, a Consent Calendar will be used to Approve certain types of applications at one time. The Consent Calendar is divided into two parts:

Consent Calendar I Routine business such as modifications of use permits which are not subject to a public hearing and items proposed for continuance. (Please note that items proposed for continuance to a date certain will not be re-noticed by mail or posting on site.)

Consent Calendar II Public hearings on use permits and variances that are apparently non-controversial, on which no adverse comment has been received, and on which the Zoning Officer recommends approval.

The Chairperson of the Board will announce the items on the Consent Calendar at 7:05 p.m. 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. Any applicant, member of the audience, or Zoning Adjustments Boardmember may require that a Consent Calendar II item be removed from the Calendar for discussion and testimony. Items pulled from the Consent Calendar will be heard following Continued Items.

PUBLIC TESTIMONY PROCEDURES

The Board may limit the number of speakers and the length of time allowed to each speaker. Persons wishing to offer testimony are encouraged to submit their comments in writing. You may also submit comments by E-mail at zab@ci.berkeley.ca.us. If you want to speak at a public hearing, you must turn in a speaker card by 7:15 p.m. on the night of the hearing. Cards may also be submitted at the Zoning Counter at 2120 Milvia Street prior to 5 p.m. on the day of the hearing.

Note: Please refrain from wearing scented products to public meetings.
Roll Call: 7:01 PM

Public Comment: 7:01 PM

Consent Calendar I

1. 1419 ASHBY AVENUE

   Modification #03-70000018 of Use Permit #98-10000084 for a time extension to allow a 5,094 square foot residential building with 4 dwelling units, 3 stories with an average height of 25.5 feet, on a 5,618 square foot lot. A total of 4 parking spaces are proposed (Hector Lopez)
   PSA Action Date: 06-30-03
   Continued From: None
   Board Action: Approved with added conditions – 6-0-0
                (Capitelli, Katz, Tiedemann – Absent)

Consent Calendar II

   None

Appeal of Administrative Use Permits

   None

Continued Hearing

2. 1325 SPRUCE STREET

   Public Hearing of Appeal of Administrative Use Permit to construct a deck over an existing garage, including the extension of a legally non-conforming side yard setback at the garage – AUP #02-20000100 (Hector Lopez)
   PSA Action Date: None
   Continued From: 04-24-03; 05-08-03
   Board Action: Affirmed Zoning Officer’s decision to approve with added conditions – 7-0-0 (Capitelli, Tiedemann – Absent)
New Hearing

3. **809 SHATTUCK AVENUE**  
   Request by Gabriel Sciannella to add 200 square feet to an existing single-family dwelling that exceeds the maximum allowable lot coverage - #03-10000017 (Aaron Sage)  
   PSA Action Date: 06-06-03  
   Continued From: None  
   Board Action: Approved on CCII – 6-1-0 (Sprague – No) (Capitelli, Tiedemann – Absent)

4. **Administrative Use Permits Approved by the Zoning Officer**

   2630 San Pablo Ave  
   1607 Shattuck Ave

5. **Information/Communication**

   A. Public Hearing Notice advising Planning Commission’s meeting set for May 28, 2003, regarding changes to residential zoning to prohibit the use of dangerous and/or sharp material in or on top of fences in residential districts and amortize such existing structures.

   B. Final EIR for 2526 Durant Avenue: Request by Ruegg & Ellsworth for a Use Permit #00-10000066 & Landmarks Alteration Permit #00-40000024 to demolish existing Structure of Merit and construct a mixed-use building with 44 dwelling units (6 affordable) with 28,000 square feet of residential floor area and 4,008 square feet of non-residential floor area. 5 stories with an average height of 50 feet, on a 10,377 square foot lot. A total of 26 parking spaces are proposed. Use Permit per Section 23E.56.030 to construct a 31,626 square foot, 5-story mixed-use building. Structural Alteration Permit per BMC Section 3.24.200 to alter (demolish) a City of Berkeley Structure of Merit and garden. Use Permit per Section 23C.08.010 to demolish the existing building. Use Permit per Section 23E.04.020.C to allow a 61-foot elevator penthouse to exceed the District height limit of 50 feet. Use Permit per Section 23E.04.050.E to reduce the required rear yard adjacent to the R-4 District from the required setback of 13 feet. Use Permit per Section 23E.56.050.A.2 to construct more than 1,500 square feet of gross floor area. Use Permit per Section 23E.080.A.6 to add 8 parking spaces to the existing 18 off-street parking spaces.

6. **Business Meeting**

7. **Chair’s Report**
8. **Current Business/Committee Appointments**

9. **Future Agenda Items**
   
   A. Pending Zoning Hearings
   B. City Council Appeals List

10. **Other Matters**

    **Adjourn:** 8:13 PM

    **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:
Legal Notice Concerning Your Legal Rights – Continued:

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.

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 981-6345 (TDD); at least five (5) working days notice will ensure availability.

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