MEETING SUMMARY
CORRECTED

Item #3 – 2526 Durant Avenue

ZONING ADJUSTMENTS BOARD AGENDA
MONDAY, DECEMBER 1, 2003
7:00 PM
CITY COUNCIL CHAMBERS, OLD CITY HALL
2134 MARTIN LUTHER KING JUNIOR WAY
BERKELEY, CALIFORNIA 94704
(Wheelchair Accessible)

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

Public Comment

Consent Calendar I

Consent Calendar II

Appeal of Administrative Use Permit

NOTE: Appeals of Administrative Use Permit are not subject to public hearing and no public testimony will be taken at this time. The Board can choose to set the matter for public hearing or affirm the decision of the Zoning Officer to grant the permit.

1. 68 NORTHAMPTON AVENUE
   Appeal of Administrative Use Permit #03-20000037 for the installation of a hot tub in the rear yard of a single family residence (Lucy Armentrout-Ma)
   PSA Action Date: None
   Continued From: None
   Board Action: Set for Public Hearing on 01-08-03 – 7-0-2 – (Anthony, Weinberger – Absent)

2. 639 SANTA ROSA AVENUE
   Appeal of Administrative Use Permit #03-20000074 for the construction of a fence over six feet high and for the legalization of a pre-existing hot tub and a pre-existing section of rock wall over six feet high (Lucy Armentrout-Ma)
   PSA Action Date: None
   Continued From: None
   Board Action: Affirmed Zoning Officer’s decision to approve – 7-0-2 - (Anthony, Weinberger – Absent)
Continued Hearing

3. **2526 DURANT AVENUE**

Request by Ruegg & Ellsworth to demolish the existing Structure of Merit (The Blood House) and construct a mixed-use building with 44 dwelling units (7 affordable) with 29,855 square feet of residential floor area and 2,794 square feet of non-residential floor area, 5 stories, 50-foot average height, on a 10,377 square foot lot with 18 parking spaces proposed. ZAB certified EIR on 06-26-03. The project requires the following permits: Use Permit per Section 23E.56.030 to construct a mixed-use building; Use Permit per Section 23C.08.010 to demolish the existing building; Use Permit per Section 23E.04.020.C to exceed the District height limit of 50 feet; Use Permit per Section 23E.56.050.A.2 to construct more than 1,500 square feet of gross floor area; Density Bonus: Variance to allow fifth story where four are normally allowed and a Use Permit to allow the reduction in the required rear yard (13-feet) adjacent to the R-4 District – UP #00-10000066 (Greg Powell)

- PSA Action Date: 05-10-02
- Continued From: 06-12&26-03; 07-10&24-03; 08-28-03; 09-25-03; 10-23-03; 11-13-03

**Board Action:** Continued to 01-22-03 and reopen Public Hearing – 7-0-2 - (Anthony, Weinberger – Absent)

4. **1862 EUCLID AVENUE**

Request by John Gutierrez to allow a food service establishment (quick service) and to waive seven (7) off-street parking spaces – UP #03-10000043 (Hector Lopez)

- PSA Action Date: 11-13-03
- Continued From: 11-13-03

**Board Action:** Denied – 6-1-2 – (Allen – No) (Anthony, Weinberger – Absent)

New Hearing

5. **1340 SIXTH STREET**

Request by Ken David to demolish a commercial building, demolish a residential duplex and to construct a 10,472 square foot building, in “average” height, portions of which are three stories tall, and with seven parking spaces, on a 10,320 square foot site – UP #02-10000026 (Steve Solomon)

- PSA Action Date: 11-10-03
- Continued From: None

**Board Action:** Continued to 01-08-03 – 7-0-2 - (Anthony, Weinberger – Absent)
6. **Administrative Use Permits Approved by the Zoning Officer**

- 1728 Buena Ave
- 1550 Ninth St
- 499 Vermont Ave
- 2141 Eunice St
- 2026 Ninth St
- 1800 West Frontage Rd
- 2465 Fourth St
- 2855 Telegraph Ave

7. **Information/Communication**

8. **Business Meeting**

9. **Chair’s Report**

10. **Current Business/Committee Appointments**

11. **Future Agenda Items**

   A. Pending Zoning Hearings
   B. City Council Appeals List

12. **Other Matters**

**Adjourn:** 12:35 AM

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

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.

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.

Corrected ac120103