MEETING SUMMARY

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, FEBRUARY 12, 2004
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 includes:

   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.)

   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 item be removed from the Calendar for discussion and testimony (if already posted for hearing). 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.
AGENDA

Roll Call: 7:05 PM

Public Comment: 7:05 PM

Consent Calendar

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. 1911 MARTIN LUTHER KING JR. WAY
   Continued From: None
   Board Action: Affirmed Zoning Officer’s decision to approve – 7-0-0 (Blake, Matthews – Absent)

Continued Hearing

2. 2861 BUENA VISTA WAY
   Request by Andrew Fischer of Regan Bice Architects to construct a single family dwelling; to construct an accessory dwelling unit without providing a second off-street parking space; to waive the off-street parking accessory dwelling unit; to exceed the average height limit of 28 feet for main buildings by about 3 feet, 6 inches; to exceed the maximum height limit of 35 feet for main buildings by about 3 feet and; to reduce the front building setback from 20 feet to 4 feet – UP #03-10000010 (Aaron Sage)
   Continued From: 11-13-03; 01-22-04
   Board Action: Continued to 03-11-04

New Hearing

3. 2439 & 2441 MARTIN LUTHER KING JR. WAY
   Request by William Coburn, Architect, to demolish the existing 560 square feet, non-residential building at 2441 Martin Luther King Junior Way and construct a two-story, 1,213 square foot addition to the existing 2,597 square foot, mixed-use building at 2439 Martin Luther King Junior Way – UP #03-10000013 (Greg Powell)
   Continued From: None
   Board Action: Approved with modified Conditions – 7-0-1 (Sprague – Abstain) (Matthews – Absent)
New Hearing – Continued:

4. **1340 ROSE STREET** Request by Michael Baum to add 200 square feet of habitable space to a home which is legally non-conforming by reason of residential density (home sits on a parcel with a total of 3 homes where a maximum of 2 are allowed) – UP #03-10000122 (Lucy Armentrout-Ma)

   Continued From: None

   **Board Action: Approved – 8-0-0 (Matthews – Absent)**

5. **2300 SHATTUCK AVENUE** Request by James Novosel, Architect, to establish a drug store of approximately 15,500 square feet with alcohol sales (wine and beer) – UP #03-10000077 (Steve Solomon)

   Continued From: None

   **Board Action: Approve with added Conditions – 8-0-0 (Matthews – Absent)**

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

   1622-1624 Delaware St       20 Florida Ave

7. **Information/Communication**

   1. Lapsed Use Permit Procedures – **Concurred with Staff Memo**
   2. Correspondence from Edward Levitch regarding 1340 Sixth Street.
   3. E-mail from Gale Garcia: Big Leaking Buildings, Berkeley’s Future Bright?

8. **Business Meeting**

9. **Chair’s Report**

10. **Current Business/Committee Appointments**

    A. Election of Chair and Vice-Chair
11. **Future Agenda Items**

A. Pending Zoning Hearings  
B. City Council Appeals List

12. **Other Matters**

**Adjourn:** 10:20 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:

   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.
Legal Notice Concerning Your Legal Rights – Continued:

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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