ACTION MINUTES

ZONING ADJUSTMENTS BOARD
THURSDAY, JULY 14, 2005
7:00 PM

CITY COUNCIL CHAMBERS, OLD CITY HALL
2134 MARTIN LUTHER KING JUNIOR WAY
BERKELEY, CA 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 PM 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**  
7:03 All present except Blake (arrived 7:09).

**Public Comment**

**Consent Calendar**

1. **1532 M L KING WAY**  
   Request by Mr. Wallace Whittier, 1532 MLK, LLC, 805 Camelia St, Berkeley, CA 94608  
   Use Permit 04-10000079 would allow the demolition of a single-family dwelling and the  
   construction of a two-story, 2,215 sq. ft., duplex and a one-story, 642 sq. ft. cottage. Three parking  
   spaces would be provided. (R-2A, SMS)  
   Continued From: 05-12-05; 06-23-05  
   Board Action: Continued to 7-28-05. (9-0-0-0)

**Agenda Changes:** Took 1734 La Vereda first

**Appeal of Administrative Use Permit:** None  
*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 or deny  
the decision of the Zoning Officer to grant the permit.

**Continued Hearings:** None

**New Hearings:**

2. **2500 DURANT AVENUE**  
   Request by Timothy Richardson, T-Mobile Wireless, 1855 Gateway Blvd, Suite 900, Concord,  
   CA 94520  
   Use Permit 03-10000083, wireless telecommunications facility mounted on exterior rooftop  
   parapet walls of a five story building (C-T, SMS)  
   Continued From: None  
   Board Action: Approved as recommended by staff (5-2-1-1). (No: Sprague, Metzger. Abstain:  
   Katz. Absent: Blake)
3. **1734 LA VEREDA**
   *Appealed by:* (1) Leo Simon (“Simon”) – 1730 La Vereda Road, Berkeley, CA 94709; (2) Michael Weiss & Lynn Knight (“Weiss & Knight”) – 1724 La Vereda Road, Berkeley, CA 94709; and (3) Michael Parker (“Parker”) – 1700 La Vereda Road, Berkeley, CA 94709.
   *Project:* APPEALS #04-00000069, #04-00000070, and #04-00000071 of Administrative Use Permit #03-20000117 to construct a single-story 977 square foot accessory structure (3 car garage with two spaces in tandem to serve 1732 La Vereda Road) on a vacant lot at 1734 La Vereda Road (R-1(H), DS).

   **Continued From:** 09-23-04 off calendar
   **Board Action:** Adopted the Recirculated Mitigated Negative Declaration (9-0-0-0); Approved Project with changes (9-0-0-0)

4. **1001 ASHBY AVENUE**
   *Request by:* Affordable Housing Associates, 1250 Addison Street, Suite G, Berkeley, CA 94702
   *Use Permit #05-70000011 to Modify the plan approved by Use Permit #03-10000112 to modify the site plan, floor plan and building elevations; resulting in a gross floor area reduction of 1,855 square feet. (C-W, GP)

   **Continued From:** None
   **Board Action:** Item had not been posted as a Public Hearing. Moved to Consent Calendar and approved. (8-1-0-0) (No: Sprague)

5. **Information/Communication**
   A. Presentation, Planning Staff, “Zoning Ordinance Amendments to Parking Requirements.”
   B. Presentation, Downtown Business Associate, “Downtown Renaissance”, and an update on development and business mix in the downtown district.
   D. Density Bonus Subcommittee Report.
   E. Compliance Monitoring Subcommittee Report.
   F. Revised Meeting Schedule:
      - **July 28, 2005 Meeting will Start at 6:00 pm, with a Special Meeting. Staff will re-notice items as necessary to ensure public knowledge of the shift in time.**
      - August 11, 2005 Meeting canceled.
      - ALERT -- September 8, 2005 meeting to be held in the North Berkeley Senior Center.

6. Business Meeting
7. Chair’s Report
8. Current Business/Committee Appointments
9. Future Agenda Items
10. Other Matters

11. Adjourn: 9:15pm

**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.
   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.

[Approved for posting, Debra R. Sanderson, ZAB Secretary, 7/18/05]