Action Minutes

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, April 27, 2006

Note – change in time
Special Meeting, 6:00 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 6:15 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.
ACTION MINUTES

Roll Call
Call to Order: 6:02 PM
Roll Call: Anthony, Judd, Allen, Tiedemann, Shumer, Metzger, Wilson, Katz
Absent: Blake
Approximate Public Attendance: 30 people

Public Comment
Open: 6:03 PM
Closed: 6:06 PM
One Speaker

Consent Calendar
Blake Arrived 6:07 PM
Projects Moved to the Consent Calendar and Approved:

1215 Oxford Street
745 Page Street
1009 Heinz Street/2835 Ninth Street
3045 Hollis Street
1707 Vine Street
1218-1220 Seventh Street
2120 Dwight Way

1. 59 Vicente Road
Request by: Robert Huggins, 4670 Willow Rd., Pleasanton, CA 94588
Use Permit Modification #06-70000011, modifying Use Permit #01-10000064 to enlarge a rear patio
deck of an approved 5,221 square foot single-family residence and establish a spa in the deck. (R-1(H) Single Family Residential – Hillside Overlay, SRF).

Continued From: None
Recommendation: Approve
Action: Approved on Consent (9-0-0-0).

2. 1421 Second Street, Pacific Steel Casting Company
Request by: Christina Chan, 1333 Second Street, Berkeley CA 94710.
Use Permit #06-10000045 to modify Use Permit #8957 to allow the construction of a Carbon Adsorption System at Plant 3. (M, Manufacturing Zone, GMS).

Continued From: None
Recommendation: Continue to 5/11/06
Action: Continued 5/11/06 (9-0-0-0).

Agenda Changes

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 will choose to set the matter for public hearing, or affirm or deny
Continued Hearings: None

Nuisance Proceedings: None

New Hearings:

3. 2104-08 Sixth Street
Request by: Timothy Rempel, 2213 Fifth Street, Berkeley CA 94710.
Use Permit #06-10000027 to modify Use Permit #03-20000030 to legalize the demolition and
reconstruction of 2104 Sixth Street. (MU-R, Mixed Use Residential District, GS).
Continued From: None
Recommendation: Adopt MND and Approve
Action: Adopted MND and Approved Project
with Changes (9-0-0-0).

4. 1215 Oxford Street
Request by: Robert Nebolon Architect, 801 Camelia Street, Suite E, Berkeley, CA 94710.
Use Permit #04-10000087 to demolish an existing single-family dwelling unit and construct a new
single-family dwelling unit at 1215 Oxford Street,
(R-1(H): Single-Family Residential District and Hillside Overlay District, CW).
Continued From: None
Recommendation: Adopt MND and Approve
Action: Adopted MND and Approved Project on
Consent (7-2-0-0) (No: Metzger, Shumer).

5. 745 Page Street
Request by: Mr. Alan Dreyfuss, 1735 Sixth Avenue, Oakland, CA 94606.
Use Permit #04-10000135 to demolish an existing dwelling unit and construct a new dwelling
unit. (MU-R, Mixed Use Residential District, CW).
Continued From: None
Recommendation: Approve
Action: Approved on Consent (9-0-0-0).

6. 1009 Heinz Street /2835 Ninth Street
Request by: Ron Shanttil, Architect, 9200 Skyline Boulevard Oakland, CA 94611.
Use Permit Modification #05-70000037 to permit and construct an interior remodel to add
classroom space (1009 Heinz Street); Use Permit Modification #05-70000042 to construct a
2,790 square foot canopy/shade structure to cover outdoor play equipment (2835 Ninth Street) at
an existing private elementary school (Ecole Bilingue French American School). (MU-R, Mixed
Use Residential District, DS).
Continued From: None
Recommendation: Approve
Action: Approved on Consent (9-0-0-0).
7. **3045 Hollis Street**
   Request by: Kamal Obeid, 3845 Beacon Ave., Suite D, Fremont, CA 94538.
   Use Permit #05-10000102 to allow existing parking for a light industrial building to remain within 20 feet of the secondary street frontage. (MU-LI, Mixed Use-Light Industrial District, AS).
   
   **Continued From:** None  
   **Recommendation:** Approve  
   **Action:** Approved on Consent (9-0-0-0).

8. **1707 Vine Street**
   Request by: Robert Pennell, c/o Jarvis Architects, 5278 College Avenue, Oakland, 94618.
   Use Permit #05-10000124 to construct a 456-square-foot, third-story addition to an existing single-family dwelling that exceeds the maximum allowable lot coverage, and legalize an existing hot tub. (R-2, Restricted Two-family Residential, AS).
   
   **Continued From:** None  
   **Recommendation:** Approve  
   **Action:** Approved on Consent (8-1-0-0) (No: Blake).

9. **1885 University**
   Request by 1950 MLK, LLC, c/o Chris Hudson, Hudson McDonald LLC, 2140 Shattuck Avenue, Suite 302, Berkeley, CA 94704.
   Use Permit #02-10000070, Preliminary consideration of a modified design to allow construction of a mixed use development with 156 dwelling units, 14,390 square feet of retail, and 157 parking spaces in a two level parking garage. The existing commercial building (totaling approximately 20,375 square feet) would be demolished. (C-1, General Commercial; SDR).
   
   **Continued From:** None  
   **Recommendation:** Take Public Testimony and Advise on Mass and Height  
   **Action:** No Action: Took public testimony and provided advice to Design Review Committee on height & mass.

10. **1309 Carleton Street**
    Request by: Mark Kelly, 1406-Kains Avenue Berkeley CA, 94702.
    Use Permit #06-1000006 to add a 580.5 sq. ft. second-story addition to the front building, legalize the conversion of a 342 sq. ft. garage to habitable space attached to the rear building, and establish an off-street parking space within a required side yard. (R-1, Single-family Residential District, ND).
    
    **Continued From:** None  
    **Recommendation:** Approve  
    **Action:** Approved (9-0-0-0).

11. **1218-1220 Seventh Street**

File: ac042706mns
Request by: Kieran Boughan, Architect, 845 Waller Street, #5, San Francisco, CA 94117. Use Permit #06-10000025 to add a 2,193 square foot parking structure to an existing, 3,760 square foot automotive service building at 1218 Seventh Street; and to construct an 8,705 square foot, three-story building with mezzanine on a vacant lot at 1220 Seventh Street. (MU-LI, Mixed Use Light Industrial, GP).

Continued From: None
Recommendation: Approve
Action: Approved on Consent (8-0-1-0) (Recused: Blake).

2120 Dwight Way
Request by: Stella Nonna, Inc. 2316 Haste St., Berkeley, CA 94704. Use Permit #05-10000145 to establish an 854 square foot carry-out food service store in an existing mixed use building. (C-SA – Commercial South Area District, SRF).

Continued From: None
Recommendation: Approve
Action: Approved on Consent (9-0-0-0).

Additional Agenda Items:
Information/Communication

1. Change in membership: Welcome Sara Shumer as new ZAB member.

2. Compliance Subcommittee Report.

3. Joint Density Bonus Subcommittee Report

4. Update on Gaia Building considerations.

5. Updated Copies of the Zoning Ordinance.

6. Correspondence:
   ▪ April 20, 2005, from Mary Wyand (Re: 1201 San Pablo)
   ▪ April 15, 2006, from Anna De Leon, Anna’s Jazz Island (Re: Gaia)
   ▪ April 11, 2006, from Gale Garcia (Re: Kinder Morgan Pipeline Safety)
   ▪ April 10, 2006, from Michael Patrick Durkee (Re: Gaia)
   ▪ April 5, 2006, from Alissa Myrick (Re: Gaia)

Business Meeting
Chair’s Report
Current Business/Committee Appointments
Future Agenda Items
Other Matters
Adjourn 10:37 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.

   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 981-7474 (TDD); at least five (5) working days notice will ensure availability.

[Approved for posting by Debra R. Sanderson, Secretary, Zoning Adjustments Board, May 17, 2006]