ZONING ADJUSTMENTS BOARD ACTION MINUTES
THURSDAY, May 25, 2006
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.
Roll Call
Call to Order: 7:00 PM
Roll Call: Judd, Tiedemann, Allen, Shumer, George Beier for Dean Metzger, Wilson, Anthony
Approximate Public Attendance: 45

Public Comment
Blake and Katz arrive 7:03 PM
Opened: 7:02 PM
No Speakers
Closed: 7:02 PM

Consent Calendar

1036 Oxford moved to the consent calendar
2948 Martin Luther King moved to the consent calendar
2735 San Pablo moved to the consent calendar

1. 2628 Telegraph Avenue
Request by: James Novosel – 1840 Alcatraz Avenue, Berkeley CA 94703
Modification #06-70000006 to 1) Effect a minor reconfiguration of floor plans in all units to accommodate washer/dryer closets in each unit, 2) Replace approved plaster façade at bay windows with copper shingles, and 3) Replace standing seam metal roof with asphalt shingle roof (C-1, General Commercial, GMS)
Continued From: none
Recommendation: Approve
Action: Approved on Consent (9-0-0-0).

2. 1941 Vine Street
Request by: Ronald Rioux, 1941 Vine Street Berkeley CA 94709
Modification #05-70000023 to modify Variance #00-10000088 to increase the floor area (by 185 square feet) of a duplex that is nonconforming as to lot coverage (R-2A, Restricted Multi. Family, GMS)
Continued From: none
Recommendation: Approve
Action: Approved on Consent (9-0-0-0).

Agenda Changes
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 will choose to set the matter for public hearing, or affirm or deny the decision of the Zoning Officer to grant the permit.

3. 1036 Oxford Street
Request by: Arthur and Susan Hartinger, 1036 Oxford Street, Berkeley, CA
Appeal of the Zoning Officer’s decision to deny AUP #05-20000101 for a reduction of a non-conforming side yard and rear yard setback in the Hillside district (R-1 (H), Single Family, FC).

Continued From: none
Recommendation: Set for Public Hearing on June 22, 2006
Action: Adopted recommendation on Consent (9-0-0-0).

Continued Hearings:

4. 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: Previously discussed: 04/27/06, 5/11/06
Recommendation: Take public comment and discuss
Action: Took public comment and discussed. Continued to 6/8/06 (9-0-0-0).

5. 1725-35 Le Roy Avenue
Request by: Jim Goring of Goring and Straja Architects, 5885 Hollis St., Emeryville, CA 94608
Modification of Variance/Use Permit #04-1000002 to allow bell “tower” at front terrace of approved theology school (R-3H, Multiple Family Residential Hillside, AS).

Continued From: 3/23/06
Recommendation: Approve
Action: Approved (8-0-1-0) (Abstain: Shumer).

Nuisance Proceedings: None

New Hearings:

6. 2721 Shattuck Avenue
Request by: Nextel Communications, C/o Ms. Elizabeth Aron, Parsons, 185 Berry Street, Suite 5300, San Francisco, CA 94107
Use Permit #04-10000068 to construct a new wireless telecommunications facility (including twelve antennas and related equipment); (C-SA, South Area Commercial District, CW).
Continued From: none
Recommendation: Approve

7. 2721 Shattuck Avenue
Request by: Verizon Wireless, C/o Mr. James Singleton, Cal Com Systems, Inc, 2001 Omega Road, Suite 100, San Ramon, CA 94583
Use Permit #05-10000033 to construct a new wireless telecommunications facility (including five antennas and related equipment) for Verizon Wireless (C-SA, South Area Commercial District, CW).
Continued From: none
Recommendation: Approve
Action: Approved (8-0-1-0) (Abstain: Shumer).

8. 1145 Gilman Street
Request by: Mr. Phillip Thomas, AT&T Wireless Services, 651 Gateway Boulevard, South San Francisco, CA 94080
Use Permit #04-10000073 to construct a new wireless telecommunications facility (including three antennas and related equipment); (R-2, Restricted Two-Family Residential, CW)
Continued From: none
Recommendation: Approve
Action: Denied Project (7-2-0-0-). (Vote Yes to deny project: Blake, Judd, Katz, Beier, Shumer, Teiedemann, Wilson) (Vote No to deny permit: Allen, Anthony).

9. 2948 Martin Luther King Jr. Way
Request by: Abdo Hussein, 5944 San Pablo Avenue, Oakland, CA 94608
Use Permit #06-10000012 to establish a carry-out food service and an automatic teller machine inside of a retail grocery store (C-SA, South Area Commercial, SRF).
Continued From: none
Recommendation: Approve
Action: Approved on Consent (9-0-0-0).

10. 2735 San Pablo Avenue
Request by: Roger Wilson, 1220 Addison Street, Suite 104, Berkeley, CA 94702
Use Permit #06-10000015 to expand a 5,180 square foot machining shop with a proposed single-story addition of 3,538 square feet to the rear of an existing, 7,530 square foot two-story building. (C-W, West Berkeley Commercial, JL/GP).
Continued From: none
Recommendation: Approve
Action: Approved on Consent (9-0-0-0).

11. 65 Southampton Avenue
Request by: Howard Stone, 993 Cragmont Avenue, Berkeley, CA 94708
Use Permit #05-1000112 to construct a two-story, single-family dwelling with an average height of 28 feet, a gross floor area of 3,227 square feet, and a detached two-car garage on a vacant lot of 6,785 square feet (R-1H, Single-Family Residential Hillside, JL/AS).

Continued From: none
Recommendation: Adopt Negative Declaration and Approve Project
Action: Adopted Negative Declaration and Approved as Recommended (9-0-0-0).

Additional Agenda Items:
Information/Communication

1. Change in membership: Substitute member, George Beier, for Dean Metzger.
2. Joint Density Bonus Subcommittee Report
3. Correspondence:

Business Meeting
Chair’s Report
Current Business/Committee Appointments
Future Agenda Items
Other Matters
Adjourn 12:15 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
pubic 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, June 1, 2006]