Action Minutes

Zoning Adjustments Board
Thursday, October 12, 2006
7:00 PM

City Council Chambers
2134 Martin Luther King Junior Way
Berkeley, CA 94704
(Wheelchair Accessible)

Public Testimony Guidelines
The Board Chair may limit the number of speakers and the length of time allowed to each speaker. To speak at a public hearing, complete a speaker card and submit to Planning Staff (1) at the public hearing, by 7:15 PM on the night of the hearing, or (2) at the Permit Service Center, 2120 Milvia Street, before 5:00 PM on the day of the hearing.

The Board encourages the public to submit comments in writing or by email, in advance of the meeting. See Correspondence and Notice of Decision Requests at the end of this Agenda for procedures.

Planning and Development Department, Land Use division

Roll Call Call to Order: 7:00 PM
Roll Call: Allen, Anthony, Blake, Judd, Arreguin, Metzger, Poschman for Shumer, Wilson,
Absent: Blake
Approximate Public Attendance: 90 people

Public Comment
Each Speaker is limited to a maximum of three minutes.
Opened: 7:02 PM
One Comment
Closed 7:06 PM

Consent Calendar: None
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 Board member 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, or, if necessary, posted for a public hearing at a subsequent meeting.
2727 Milvia Added to the Consent Calendar
1645 Fourth Street/725 Virginia Street Added to the Consent Calendar

Agenda Changes
The Board Chair may reorder the agenda at the beginning of the meeting.

Appeal of Administrative Use Permit:
Appeals of Administrative Use Permit are not subject to public hearing and no public testimony will be taken at this time. The Board may set the matter for public hearing, or affirm the Zoning Officer’s decision.

1. 2727 Milvia Street
Appellant: Mr. Art Medlar, 2730 Milvia Street, Berkeley, CA 94703 and Savo Island Cooperative Homes, Inc., 2017 Stuart Street, Berkeley, CA 94703.
Applicant: East Bay Iceland, Inc., 2727 Milvia Street, Berkeley, CA 94703
Appeal of Temporary Administrative Use Permit #06-20000056 to install a temporary outdoor refrigeration system on the southern side of the property for the existing ice skating rink; (South Area Commercial (C-SA), CW).

   Continued From: None
   Recommendation: Set for Public Hearing on October 26, 2006.
   Action: Set for Public Hearing on October 26, 2006 on consent (8-0-0-1) (Absent: Blake).

Continued Hearings:
Blake arrived 7:14 PM

2. 1575 Solano Avenue/1572 Capistrano Avenue
Request by: Milo Foundation (Lynne Tingle, Director), 1575 Solano Avenue, Berkeley, 94707.
Use Permit 05-10000091 to authorize existing dog/cat adoption service (1575 Solano) and create dwelling unit in existing 2-story commercial building with 3,275 sq. ft. of floor area and 2 parking spaces (1572 Capistrano); (C-SO, Solano Avenue Commercial, AS).

   Continued From: 9/14/06
   Recommendation: Consider new info and provide direction
   Action: Considered new info and provided direction for staff, continued to October 26, 2006 (9-0-0-0)

3. 1120 Second
Request by: Blythe Wilson, Architect, RHL Design Group, 1137 North McDowell Boulevard, Petaluma, CA 94954.
Use Permit # 05-10000151 and Variance #06-10000097 to demolish three existing one-story mini-storage buildings totaling 28,070 square feet and replace them with a new four story 95,771 square foot mini-storage building (Manufacturing, M, SDR/TG).

   Continued From: 09/14/06

File: ac101206
Recommendation: APPROVE  
Action: Approved with Changes (9-0-0-0).

4. **1628 Carlton**  
Request by: Darrell Rupe, 2200 Adeline St. #360, Oakland, CA 94607.  
Variance #06-10000082 to demolish an existing single-family dwelling with a non-conforming front setback (18 feet, 6 inches where 20 feet are required) and construct a new dwelling with front yard of 18 feet, 6 inches, 2,595 square feet, two stories, and average height of 24 feet; (R-2, Restricted Two-family Residential, NFD/AS).

Continued From: 09/28/06  
Recommendation: DENY Variance; APPROVE Use Permit for relocated building.  
Action: Denied Variance and approved Use Permit for relocated building (9-0-0-0).

Nuisance Proceedings: None

New Hearings:

5. **1645 Fourth Street/725 Virginia Street**  
Request by: Carlos Zensay Hill, 725 Virginia Street, Berkeley, CA 94710  
Use Permit #06-10000036 to legalize changes in a non-conforming use: 1) construct a detached accessory structure to contain a toilet, shower and sink; install a hot tub; replace two existing on-site parking spaces with two off-site spaces at 1717 Fourth Street; 2) expand martial arts group instruction; and 3) add a deck and door to the front of 725 Virginia Street. MU-LI (Mixed Use-Light Industrial).

Continued From: none  
Recommendation: Approved  
Action: Approved with deed restriction, on consent (8-0-0-1) (Absent: Blake)

Additional Agenda Items:
A. Information/Communication  
   - Memorandum regarding status of 1885 University Project.
B. Business Meeting  
C. Chair’s Report  
D. Current Business/Committee Appointments  
E. Future Agenda Items  
F. Other Matters  
G. Adjourn 9:14 PM

Correspondence and Notice of Decision Requests

- To distribute correspondence to Board members *prior to the meeting date* -- submit comments *by 12:00 noon, seven (7) days before the meeting*. Please provide 15 copies of any correspondence with more
than ten (10) pages.

- Any correspondence received after this deadline will be given to Board members on the meeting date just prior to the meeting.
- Staff will not deliver to Board members any additional written (or email) materials received after 12:00 noon on the day of the meeting.
- Members of the public may submit written comments themselves early in the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Zoning Adjustments Board Clerk just before or at the beginning of the meeting.
- Written comments, or a request for a Notice of Decision should be directed to the ZAB Secretary at

  Land Use Planning Division  (Attn: ZAB Secretary)
  2120 Milvia Street
  Berkeley, CA 94704  OR at  zab@ci.berkeley.ca.us

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.

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.

[Approved for posting by Debra R. Sanderson, Secretary, Zoning Adjustments Board, 10/15/06.]