Action Minutes

*Special Meeting*
Joint Zoning Adjustments Board and Design Review Meeting
Thursday, January 25, 2007
6:00 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 6:15 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: 6:00 PM
Allen, Anthony, Arreguin, Alvarez-Cohen, Doran, Shumer, Blake, Tiedemann, Judd
Approximate Public Attendance: 12 people

Public Comment
Each Speaker is limited to a maximum of three minutes.
None

Agenda

Green Building Workshop
January 25, 2007 at 6 pm

Presented by The Office of Energy and Sustainable Development.

David Arkin, principal of Arkin Tilt Architects, an award-winning firm specializing in energy and resource efficient design will discuss the principals, benefits and practice of green building from his experience as an architect and a member of the City of Albany Planning Commission.
Billi Romain, Green Building Coordinator with the Office of Energy and Sustainable Development, will present the City of Berkeley’s green building requirements and incentive programs, green building rating systems (such as LEED and Green Points) and discuss some of the challenges presented by building green.

Presentations
- Green Building overview and why it is important presented by David Arkin
- What makes a building green presented by David Arkin
- Green is Beautiful presented by David Arkin
- Green Rating Systems presented by Billi Romain
- Berkeley’s Green Building Requirements: consultation, checklist, green section of staff report presented by Billi Romain

*Regular Meeting*

Zoning Adjustments Board
Thursday, January 25, 2007
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, Arreguin, Alvarez-Cohen, Doran, Shumer, Blake, Tiedemann, Judd
Approximate Public Attendance: 167 people

Public Comment
Each Speaker is limited to a maximum of three minutes.
Consent Calendar:
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.

1. 2953-2955 Telegraph
Request by: Ms. Meskerem Tsegaye, 2955 Telegraph Avenue, Berkeley, CA 94705
Use Permit #05-70000034 to increase alcohol service of an existing full service restaurant by adding service of distilled spirits to existing service of beer and wine, and by increasing operating hours from 8:00 a.m. to 12:00 a.m. daily to 8:00 a.m. to 2:00 a.m. daily; (C-1, General Commercial District, CW).
Continued From: 12/14/06, 1/11/07
Recommendation: Continue to 2/08/07
Action: Continued to 2/08/07 on consent (9-0-0-0).

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.

2. 2008 Virginia Street
Applicant: Lorin Hill, Architect – 6573 Shattuck Avenue, Oakland, CA 94609
Appellants: Ray Oyung, 1703 & 1705 Milvia Street, Berkeley CA 94709
Josh and Josie Gallup, 1709 Milvia Street, Berkeley CA 94709
Cheryl Bergstrom, 1711 Milvia Street # A, Berkeley CA 94709
Hallie Frazer, 1711 Milvia Street # B, Berkeley CA 94709
Rosemary Dady, 2004 & 2006 Virginia Street, Berkeley CA 94709
APPEAL of Administrative Use Permit #06-20000113 to construct a 1,434sq. ft. addition by raising the existing structure approximately 6’ to create a habitable floor level and by adding a two-story, west wing to the building. (R-2A, Restricted Multi Family Residential, NFD)
Continued From: None
Recommendation: Deny Appeal
Action: Set for Public hearing (7-1-1-0) (No: Allen) (Abstain: Doran).

Continued Item (not a public hearing): None

Continued Public Hearings:
3.  **2629-2635 Ashby**  
Request by: KC Bowman, Bay Area Architects, for John Gordon, Gordon Commercial  
1840 B Alcatraz Berkeley, CA 94703  
Use Permit #06-1000098 to permit the conversion of an existing commercial building (The Wright’s Garage Building) into a multi-tenant commercial building at 2629-2635 Ashby Avenue; (C-E Zone, Elmwood Commercial District, C.Wagner/SDR).  
Continued From: 12/14/06, 1/11/07  
Recommendation: Approve  
Action: Closed public hearing closed and continued to 2/08/07 (8-1-0-0) (No: Doran).

4.  **2012 Shattuck Avenue**  
Request by: DeePak Aggarwal, 1605 Marin Avenue, Albany, CA 94707.  
Use Permit #06-10000126 for a full service restaurant with beverage service of beer and wine with prepared food; including the retail sales of beer and wine in conjunction with existing retail market; and extend hours of operation from 8:00 a.m. to 12:00 p.m. (C-2, Central Commercial District, GMS/KM).  
Continued From: 1/11/07  
Recommendation: Approve  
Action: Approved (9-0-0-0).

5.  **2721 Shattuck Avenue**  
Request by: Nextel Communications.  
Use Permit #04-1000068 to construct a new wireless telecommunications facility (including twelve antennas and related equipment); (C-SA, South Area Commercial District, CW).  
Continued From: 1/11/07  
Recommendation: Approve  
Action: Denied (6-3-0-0) (No: Allen, Judd, Doran).

6.  **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 #05-1000033 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: 1/11/07  
Recommendation: Approve  
Action: Denied (6-3-0-0) (No: Allen, Judd, Doran).

**Nuisance Proceedings:** None

**New Hearings:**
7. **1411 Seventh Street**  
Request by: Maurice Levitch, 3011 Regent Street, Berkeley, CA 94705  
Use Permit #06-10000134 to demolish a 432-square-foot single-family dwelling and construct two new townhouses with two stories each; (R-1A, Limited Two-Family Residential District, GMS/JL).  
Continued From: None  
Recommendation: Approve  
Action: Approved (7-2-0-0) (No: Arreguin, Shumer).

8. **2956 College Avenue**  
Request by: The Bay Architects, 1840 B Alcatraz Ave., Berkeley, CA 90703  
Use Permit 06-10000132 to establish an athletic apparel store in an existing retail space, thereby exceeding numerical limitation on clothing stores; (C-E, Elmwood Commercial District; AS/DD)  
Continued From: None  
Recommendation: Approve  
Action: Approved (9-0-0-0).

9. **2814 Kelsey Street**  
Request by: Peter Jacobson, 2814 Kelsey Street  
Appeal of Administrative Use Permit #04-20000017 to legalize an existing habitable accessory building; (R-2, Restricted Two-Family Residential; AS).  
Continued From: None  
Recommendation: Deny Appeal and Approve AUP  
Action: Appeal denied and AUP approved (9-0-0-0).

**Additional Agenda Items:**

A. **Information/Communication**  
- Decide on alternative date for a September meeting.  
  New meeting date: Changed meeting date from September 17 to September 10, 2007.  
- Discussion on acceptable public information regarding ZAB members contact information.  
The Board decided that staff should release ONLY their names to the public and the councilmember who appointed them. Staff shall not disclose phone numbers, mailing addresses, and email addresses. All information or correspondence directed to the Board should be given to Staff to distribute to Board Members, to ensure that all Board members receive the same information.

B. **Business Meeting**  
C. **Chair’s Report**  
D. **Current Business/Committee Appointment**  
E. **Future Agenda Items**  
F. **Other Matters**  
G. **Adjourned 11:40 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, February 1, 2007.]