Action Minutes

Zoning Adjustments Board
Thursday, March 8, 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
Present: Allen, Anthony, Arreguin, Alvarez-Cohen, Shumer, Tiedemann, Blake, Doran Judd
Approximate Public Attendance: 20 people

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

Consent Calendar:
The Consent Calendar allows the Board to take action with no discussion, on projects to which no one objects. The Agenda includes two types of Consent Calendar items: (1) Modifications of existing Use Permits (which have not been noticed for public hearings); (2) Items being continued to another meeting (Board action has been postponed to another meeting). The Board Chairperson will announce items for the Consent Calendar at 7:05 p.m. The Board may place additional Agendized items on the Consent Calendar, if no one present wishes to testify on an item. 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 from the consent calendar. Modification Projects may be discussed by the Board at this meeting or set for a public hearing at a later meeting. Items already noticed for a public hearing will be heard following Continued Items, or, if necessary, posted for a public hearing at a subsequent
Agenda Changes
The Board Chair may reorder the agenda at the beginning of the meeting.

Appeal of Administrative Use Permit: None
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.

Continued Items (Public Hearing has been closed)

1. 161 Panoramic Way
Request by: Mr. Bruce Kelley, 2015 Delaware Street, Berkeley, CA 94709.
Use Permit #04-10000145 to construct a new 2-story single-family dwelling with 1,460 square feet of floor area, 2 parking spaces, at an average height of 24 feet, on a 3,295 square foot vacant lot; (ES-R, Environmental Safety-Residential; VK/DRS).
Continued From: 01/11/07, 2/08/07, 2/22/07
Recommendation: Adopt Mitigated Negative Declaration and Approve Project
Action: Adopted Mitigated Negative Declaration and approved with conditions (5-4-0-0) (No: Arreguin, Blake, Alvarez-Cohen, Shumer).

2. 2629-2635 Ashby
Request by: KC Bowman, Bay Area Architects, for John Gordon, Gordon Commercial 1840 B Alcatraz Berkeley, CA 94703
Use Permit #06-10000098 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). Public hearing closed.
Continued From: 12/14/06, 1/11/07, 1/25/07, 2/08/07
Recommendation: Approve
Action: Approved with conditions (6-3-0-0) (No: Arreguin, Blake, Shumer).

Continued Public Hearings: None

Nuisance Proceedings: None

New Hearings: None

Additional Agenda Items:
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B. Business Meeting
C. Chair’s Report
D. Current Business/Committee Appointment
E. Future Agenda Items
F. Other Matters
G. Adjourn 8:30 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, April 16, 2007.]