Roll Call: 7:01 PM


Substitution: D. Stoloff for G. Williams; M. Cohen performing functions of Chairperson

Absent: T. Groves

Public Attendance: 30

Number of Speakers: 7

Ex Parte Communication Disclosures

In the context of adjudicative matters that come before the ZAB, ex parte communications are those which occur outside the formal hearing process. ZAB members should avoid ex-parte contacts on matters pending before the ZAB as much as possible, as they may represent, or be perceived to represent, the receipt of evidence that can unfairly influence a Board member’s decision on a matter before the Board. If such contacts do occur, they must be placed in the record and disclosed to all interested parties sufficiently in advance of the decision to allow rebuttal.

- E. Kopelson – Contacted by Rena Rickles about 22 Roble Road project
- B. Allen – Tour of 22 Roble Road project with Andrew Fischer and conversation with Rena Rickles
- D. Matthews – Conversation with Rena Rickles about 22 Roble Road project
- S. Shumer – Went to 1512 La Loma Street project and spoke with Mark Read; Also toured 22 Roble Road project with Andrew Fischer and had a conversation with Rena Rickles
- S. Hahn – Spoke with Patty Dacy about abatement for 2133 Parker Street project
- D. Stoloff – Toured 22 Roble Road project with Andrew Fischer
- M. Cohen – Spoke to Rena Rickles about 22 Roble Road project
Public Comment
Each Speaker is limited to a maximum of three minutes.

- NONE

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

- Items #3, #4, #5, #6 and #7 moved to Consent Calendar
- Item #9 moved to the front of the Agenda

Consent Calendar:
The Consent Calendar allows the Board to take action with no discussion, on projects to which no one objects. The Agenda includes three types of Consent Calendar items: (1) Approval of previous meeting minutes; (2) Modifications of existing Use Permits (which have not been noticed for public hearings); (3) 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 pm. The Board may place additional Agenda 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 meeting.

1. Approval of Previous Meeting Minutes
   Minutes from 5/12/11 meeting

<table>
<thead>
<tr>
<th>Recommendation:</th>
<th>APPROVE</th>
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<tbody>
<tr>
<td>Action:</td>
<td>APPROVED</td>
</tr>
<tr>
<td>Motion:</td>
<td>B. Allen, S. Shumer</td>
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3. 1436 Carleton Street

   Modification #11-70000005 of Administrative Use Permit #10-20000046 to relocate the required parking from within the accessory building to in front of the accessory building.

   Applicant/Owner: Ryan Lau, 1436 Carleton Street, Berkeley, CA

   (Zoning: R-1, Single-Family Residential District; Planner: Nathan Dahl)

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<th>Continued From</th>
<th>NONE</th>
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<tbody>
<tr>
<td>Recommendation:</td>
<td>APPROVE Administrative Use Permit Modification #11-70000005 pursuant to Findings and Conditions</td>
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</table>

   Number of Speakers: NA

   | Action:         | APPROVED on Consent Calendar |
   | Motion:         | B. Allen, S. Shumer |
   | VOTE:           | 8-0-0-1 (Absent: T. Groves) |
### 4. 2800 Adeline Street

**Use Permit #11-10000007** to change the use from office to a Pilates and Yoga studio with incidental retail of related items.

**Applicant:** Kristin E. Goldsmith, 985 42nd Street, Oakland  

**Property Owner:** John Gordon and Janis Mitchell, 2091 Rose Street, Berkeley

(Zoning: C-SA, Solano Avenue Commercial District; **Planner:** Claudine Asbaugh)

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<tr>
<td><strong>Recommendation</strong></td>
<td>APPROVE Use Permit #11-10000007 pursuant to Findings &amp; Conditions</td>
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<tr>
<td><strong>Number of Speakers:</strong></td>
<td>NA</td>
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<td><strong>Action:</strong></td>
<td>APPROVED on Consent Calendar</td>
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<tr>
<td><strong>Motion:</strong></td>
<td>B. Allen, S. Shumer</td>
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<tr>
<td><strong>VOTE:</strong></td>
<td>8-0-0-1 (Absent: T. Groves)</td>
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### 5. 2334 McGee Avenue

**Use Permit #11-10000004** to convert the first floor of an existing single-family dwelling into an approximately 864 square foot dwelling unit and create a new window and door opening within a non-conforming front yard setback.

**Applicant/Owner:** Arthur Holden, 2334 McGee Avenue, Berkeley, CA 94703

(Zoning: R-2, Restricted Two-Family Residential District; **Planner:** Pamela Johnson)

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<td><strong>Recommendation</strong></td>
<td>APPROVE Use Permit #11-10000004 pursuant to Findings and Conditions</td>
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<td><strong>Number of Speakers:</strong></td>
<td>NA</td>
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<td><strong>Action:</strong></td>
<td>APPROVED on Consent Calendar</td>
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<tr>
<td><strong>Motion:</strong></td>
<td>B. Allen, S. Shumer</td>
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<tr>
<td><strong>VOTE:</strong></td>
<td>8-0-0-1 (Absent: T. Groves)</td>
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### 6. 2436 Sacramento Street

**Use Permit #06-10000030** to establish a 400 square foot café in the front of an existing tutoring center (“Classroom Matters”); project includes a waiver of one required off-street parking space.

**Applicant:** Lisa and Howard Miller, c/o Classroom Matters  
2436 Sacramento Street, Berkeley, CA 94702  

**Property Owner:** We Own a Building, LLC  
539 Nielson Street, Berkeley, CA 94707

(Zoning: C-SA, South Area Commercial District; **Planner:** Aaron Sage)

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<td>APPROVE Use Permit #06-10000030 pursuant to Findings and Conditions</td>
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<td><strong>Number of Speakers:</strong></td>
<td>NA</td>
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<tr>
<td><strong>Action:</strong></td>
<td>APPROVED on Consent Calendar</td>
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<tr>
<td><strong>Motion:</strong></td>
<td>B. Allen, S. Shumer</td>
</tr>
<tr>
<td><strong>VOTE:</strong></td>
<td>8-0-0-1 (Absent: T. Groves)</td>
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7. **2609 Grant Street**

**Use Permit #10-10000074** to enlarge a two-unit building that is non-conforming to residential density and add a roof deck over 14 feet in height.

**Applicant:** Tony Elenteny  
851 Trestle Glen Road  
Oakland, CA 94610

**Property Owner:** Karen Godfredson, Tim Crocket  
2609 Grant Street, Berkeley, CA 94703

(**Zoning:** R-2, **Planner:** Greg Powell/Doug Donaldson)

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<tr>
<td>Recommendation</td>
<td>APPROVE Use Permit #11-1000074 pursuant to Findings and Conditions</td>
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**Number of Speakers:** NA

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<tr>
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<tr>
<td>Motion:</td>
<td>B. Allen, S. Shumer</td>
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<tr>
<td>VOTE:</td>
<td>8-0-0-1 (Absent: T. Groves)</td>
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**Abatement Hearing:**

Pursuant to Berkeley Municipal Code (BMC) Section 23B.64.030, the Zoning Adjustments Board may initiate proceedings to terminate, modify or condition (“abate”) any use, structure or building. The Board shall conduct a public hearing, following public notice of said hearing. Upon conclusion of the public hearing, the Board shall, within 35 days, make a written recommendation to the City Council identifying the use, structure or building being considered, identifying the property involved, and setting forth the reason or reasons for the proposed abatement, and the appropriate remedy, based on the evidence, testimony, and facts presented to the Board at the hearing.

8. **2133 Parker Street**

**Abatement Hearing** – Pursuant to Section 23B.64.030 of the Zoning Ordinance. The Zoning Adjustments Board initiated Abatement Proceedings to Review: 1) the recent construction to increase the number of bedrooms; and 2) the intended use of the building to determine if it would be used by Households or as a Group Living.

**Applicant:** Ali Eslami, P.O. Box 4623, Berkeley, CA 94794

(**Zoning:** R-2A, **Planner:** Greg Powell)

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<th>Continued From</th>
<th>5/12/11</th>
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<tbody>
<tr>
<td>Recommendation</td>
<td>CONTINUE WITHOUT DISCUSSION to July 1, 2011</td>
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**Number of Speakers:** 1

<table>
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<tr>
<th>Action:</th>
<th>PUBLIC HEARING CONTINUED TO JULY 14, 2011</th>
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<tbody>
<tr>
<td>Motion:</td>
<td>S. Shumer, S. Hahn</td>
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<tr>
<td>VOTE:</td>
<td>8-0-0-1 (Absent: T. Groves)</td>
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</table>
Appeal of Administrative Use Permit:

2. 1512 La Loma Street

Appeal of Administrative Use Permit #10-20000083 to legalize reconstruction of a pre-existing garage as a home office and art studio, with an average height of 11 feet, 7-7/16 inches.

Applicant/Owner: Mark and Freya Read
1512 La Loma Avenue, Berkeley, CA 94708

Appellant #1: Jerrie and Allen Meadows
2574 Buena Vista Way, Berkeley, CA 94708

Appellant #2: David A. Feinberg and Maureen Kobbe
2564 Buena Vista Way, Berkeley, CA 94708

Appellant #3: Timothy and Jo Drescher
2583 Buena Vista Way, Berkeley, CA 94708

Appellant #4: Alfred David and Barbara Johnson
2577 Buena Vista Way, Berkeley, CA 94708

(Zoning: R-1(H), Single-Family Residential Hillside District; Planner: Aaron Sage)

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<tr>
<th>Continued From</th>
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<tbody>
<tr>
<td>Recommendation</td>
<td>AFFIRM the Zoning Officer’s decision to approve the original Administrative Use Permit #10-20000083, subject to Findings and Conditions, and dismiss the appeals.</td>
</tr>
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</table>

Number of Speakers: 0

Action: AFFIRMED the Zoning Officer’s decision to approve AUP #10-20000083

Motion: B. Allen, E. Mikiten

VOTE: 8-0-0-1 (Absent: T. Groves)
8. **22 Roble Road**

**AUP #10-20000121** to construct a residential addition above 14’ in average height and above 20’ in maximum height on the north side of the building and to construct a lap pool within the yard on the west side of the house.

**Applicant:** Andrew Fischer, AIA  
David John Bigham, ASLA  
915 Pardee Street  
Berkeley, CA 94710  
1544 La Loma Avenue  
Berkeley, CA 94708

**Owners:** Stewart and Rachelle Owen  
195 Cat Rock Road  
Cos Cob, CT 06807

(Zoning: R-1 (H) Single-Family Residential Hillside Overlay; Planner: Nathan Dahl)

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<tr>
<td><strong>Recommendation</strong></td>
<td>APPROVE AUP #10-20000121 pursuant to Findings and Conditions</td>
</tr>
<tr>
<td><strong>Number of Speakers:</strong> 6</td>
<td><strong>Action:</strong> APPROVED with staff’s findings and conditions including a clarification on “AKA” being “Alan Kropp &amp; Associates”, that the project be subject to standard City ordinances and regulations, and that the pool equipment be enclosed within the building.</td>
</tr>
</tbody>
</table>

**Motion:** E. Mikiten, S. Shumer  
**VOTE:** 8-0-0-1 (Absent: T. Groves)

**Additional Agenda Items:**
A. Information / Communication  
B. Business Meeting  
C. Chairperson’s Report  
D. Current Business / Committee Appointment  
E. Future Agenda Items  
F. Other Matters

**Adjourn:** 8:04 PM

[Approved for posting by Steven Buckley, Secretary, Zoning Adjustments Board]
Correspondence and Notice of Decision Requests

- Communications to Berkeley boards, commissions or committees are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note:** e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

- **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 or if in color or photographic format.

- Correspondence received by the 5:00 pm Tuesday before the meeting will be posted on the ZAB web site for review by the Board and public prior to the meeting. Correspondence received later, and after the meeting, will be posted to the web site following the meeting.

- 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 e-mail) 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: Steven Buckley, ZAB Secretary), 2120 Milvia Street, Berkeley, CA 94704 OR at zab@ci.berkeley.ca.us

Accessibility Information / ADA Disclaimer
This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

SB 343 Disclaimer
Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Permit Service Center, Planning and Development Department located at 2120 Milvia Street, Berkeley, during regular business hours.

Notice Concerning Your Legal Rights
If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Adjustments Board at, or prior to, the public hearing.

2. 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 Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.

3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit 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). Any lawsuit not filed within that ninety (90) day period will be barred.

4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.

5. 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.