Action Minutes
Planning and Development Department
Land Use Planning Division

Zoning Adjustments Board
Thursday, July 10, 2008 -- 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) as early as possible at the meeting, or (2) at the Permit Service Center, 2120 Milvia Street, before 5:00 PM on the day of the hearing. At the start of the meeting the Board may rearrange the agenda or place additional agendized items on the Consent Calendar, so it is important to submit speaker cards at the start of the meeting to avoid losing the chance to speak to an item.

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: 7:00 PM
Absent: J. Anthony (Excused)
Public Attendance: ~45

Public Comment NONE
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 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 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
Item 3. 1929 Parker was moved onto the Consent Calendar for Approval.

1. Approval of Previous Meeting Minutes
Minutes from 06-26-08 ZAB Meeting

  Recommendation: Approve Minutes
  Action: Approved Minutes (8-0-0-1; Absent: J. Anthony)

2. 2600 San Pablo Avenue
Applicant:
Use Permit Modification #08-70000013 to Use Permit #05-10000130 to provide a temporary location for outdoor seating until construction of the approved expansion project is completed. (C-W, West Berkeley Commercial District; GMS)

  Continued From: NONE
  Recommendation: Approve
  Action: Approved on Consent (8-0-0-1; Absent: J. Anthony)

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

Appeal of Administrative Use Permit/Staff Level Design Review: NONE
Appeals of Administrative Use Permit and Design Review applications 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 or Design Review Secretary’s decision.

Continued Items (Public Hearing has been closed): NONE

Continued Public Hearings: NONE

Compliance Determination: NONE

New Hearings:
3. **1929 Parker**  
**Applicant:** Michael T. Butler and Elissa Gershon, 1929 Parker St., Berkley, CA 94704  
Use Permit 08-10000032 to 1) construct a two story addition to the existing 1,950 sq. ft. dwelling unit; 2) construct a 687 sq. ft. second dwelling unit at the rear of a 4,538 sq. ft. lot; 3) reduce the rear yard setback from 20’ to 4’ for the proposed unit; and 4) permit an existing hot tub. (R-2A District; EJS).  

**Continued From:** NONE  
**Recommendation:** Approve  
**Action:** Approved on Consent (8-0-0-1; Absent: J. Anthony)

4. **1107 Delaware**  
**Applicant:** John Hopkins, Architect, 609 Hearst Avenue, Berkeley, CA 94710  
Use Permit #08-10000050 to construct an approximately 2,097-square-foot, detached, 2-story building with one dwelling unit and three covered parking spaces at the rear of a lot containing an existing, 2-story duplex: (C-W, LMM)  

**Continued From:** NONE  
**Recommendation:** Approve  
**Action:** Approved (6-1-1-1; No: J. Arreguin; Abstain: S. Shumer; Absent: J. Anthony)

5. **3075 Adeline**  
**Applicant:** Ed Roberts Campus, Attn: Dmitri Belser, 2547 Eighth St., Berkeley 94710  
Use Permit Modification #08-7000012 to revise conditions of approval for Ed Roberts Campus, an approved two-story building serving people with disabilities, to allow offices of an approved tenant (Through the Looking Glass) to remain in R-3 portion of site, and clarify requirements for other tenants in R-3 portion (C-SA/R-3, AS)  

**Continued From:** NONE  
**Recommendation:** Approve  
**Action:** Approved with Amendments (8-0-0-1; Absent: J. Anthony)

**Applicant:** David Trachtenberg, Trachtenberg Architects, 2421 Fourth Street, Berkeley, CA 94710  
Use Permit #08-10000055 to establish 4,234 square feet of office use in a renovated multi-tenant commercial building and to vertically expand an approximately 17.75-foot tall building to 26.5 feet within a non-conforming front yard setback; (C-N(H), LMM)  

**Continued From:** NONE  
**Recommendation:** Approve  
**Action:** Approved with Amendments (8-0-0-1; Absent: J. Anthony)
Additional Agenda Items:
A. Information/Communication
B. Business Meeting
C. Chair’s Report
D. Current Business/Committee Appointment
E. Future Agenda Items
F. Other Matters
G. Adjourn 10:30 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 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: 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 Steven D. Ross, Secretary, Zoning Adjustments Board]