Zoning Adjustments Board  
Thursday, July 25, 2013- 7:00 PM

City Council Chambers, 2134 Martin Luther King Jr. Way, Second Floor
Berkeley, CA  94704 (Wheelchair Accessible)

How to Contact Us:  Land Use Planning Division (Attn: Terry Blount, AICP, ZAB Secretary), 2120 Milvia Street, Berkeley, CA 94704; (510) 981-7410; zab@ci.berkeley.ca.us

Roll Call: 7:00 PM

Roll Call:  
Michael Alvarez Cohen (Chairperson), appointed by Councilmember Wozniak  
Deborah Mathews, (Vice Chairperson) appointed by Mayor Bates, excused absence, replaced by Steven Ross  
Robert Allen, appointed by Councilmember Wengraf  
Shoshana O’Keefe, appointed by Councilmember Anderson  
Steven Donaldson, appointed by Councilmember Moore  
Prakash Pinto, appointed by Councilmember Maio  
Igor Tregub, appointed by Councilmember Arreguin  
George William, appointed by Councilmember Capitelli, excused absence  
Sophie Hahn, appointed by Councilmember Worthington, excused absence, replaced by Aldrin Carreon

Members of the Public
Present: 15
Speakers: 12

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.

I. Tregub – Spoke with Judy Shelton regarding the Sequoia building and how the new units would not be subject to rent control. Spoke with Councilmember Arreguin regarding the intent of the affordable housing mitigation fee resolution.

S. O’Keefe – Spoke with Elan Walton, resident in front property of the Julia Street project regarding the aesthetics of the tree in question and about the project.
Public Comment
Each Speaker is limited to a maximum of three minutes.
- Robert Brokl – Spoke regarding 2701 8th Street.

Agenda Changes
The Board Chairperson may reorder the agenda at the beginning of the meeting.
- Item #1 no quorum, continued to August 8, 2013 meeting.
- Item #4 continued to August 8, 2013 meeting.
- Item #5 approved on consent.
- Item #7 continued to August 8, 2013 meeting.

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.

<table>
<thead>
<tr>
<th>1. Approval of Previous Meeting Minutes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minutes from the 06/13/13 meeting</td>
</tr>
<tr>
<td>Recommendation:</td>
</tr>
<tr>
<td>Action:</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>2. Approval of Previous Meeting Minutes</th>
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<tbody>
<tr>
<td>Minutes from the 06/27/13 meeting</td>
</tr>
<tr>
<td>Recommendation:</td>
</tr>
</tbody>
</table>
New Public Hearings:

3. **1526 Julia Street**

<table>
<thead>
<tr>
<th>Use Permit #12-10000002</th>
<th>to construct a two-story, 1,548-square-foot, single-family dwelling behind an existing one-story, single-family dwelling; two parking spaces are proposed (one in front yard).</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Applicant:</strong></td>
<td>Tom Casey, Dogtown Development, 3294 Louise St., Oakland, CA 94608</td>
</tr>
<tr>
<td><strong>Architect:</strong></td>
<td>Matthew Baran, 3840 San Pablo Ave., Oakland, CA 94608</td>
</tr>
<tr>
<td><strong>Property Owner:</strong></td>
<td>REO Homes, LLC, 210 3rd St. #102, Oakland, CA 94608</td>
</tr>
<tr>
<td><strong>Zoning:</strong></td>
<td>R-2A, “Restricted Multiple-Family Residential District”; <strong>Planner:</strong> Aaron Sage</td>
</tr>
</tbody>
</table>

| Continued From:        | None                                                                                                                                                                                                 |
| **Recommendation:**    | **DENY** the requested Administrative Use Permit for uncovered parking within the required front yard, and **APPROVE** the remainder of the application subject to the attached Findings and Conditions |
| **Action:**            | **APPROVED** the Administrative Use Permit with changes to the Findings and Conditions and **APPROVED** the remainder of the application.                                                              |
| **Motion / Second:**   | R. Allen / S. O’Keefe                                                                                                                                                                                 |
| **# of Speakers:**     | 8                                                                                                                                                                                                   |
| **Vote:**              | 8-0-0-1 (Absent: G. Williams)                                                                                                                                                                       |

4. **1529 Harmon Street**

<table>
<thead>
<tr>
<th>Use Permit #12-10000003</th>
<th>to construct a two-story, 1,766-square-foot, single-family dwelling behind an existing two-story, duplex; four parking spaces are proposed.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Applicant/Architect:</strong></td>
<td>Matthew Baran, 3840 San Pablo Ave., Oakland, CA 94608</td>
</tr>
<tr>
<td><strong>Property Owner:</strong></td>
<td>REO Homes, LLC, 210 3rd St. #102, Oakland, CA 94608</td>
</tr>
<tr>
<td><strong>Zoning:</strong></td>
<td>R-2A, “Restricted Multiple-Family Residential District”; <strong>Planner:</strong> Aaron Sage</td>
</tr>
</tbody>
</table>

| Continued From:        | None                                                                                                                                                                                                 |
| **Recommendation:**    | **APPROVE** Use Permit #12-10000003 pursuant to Section 23B.32.040 and subject to the attached Findings and Conditions.                                                                          |
| **Action:**            | **CONTINUED** to August 8, 2013.                                                                                                                                                                     |
| **Motion / Second:**   | I. Tregub / R. Allen                                                                                                                                                                                |
| **Vote:**              | 8-0-0-1 (Absent: G. Williams)                                                                                                                                                                       |
5. **1511 Ada Street**

**Use Permit #13-10000025** to construct an approximately 98 sq. ft. second story addition to an existing 1,417 sq. ft. single family dwelling for an expanded master bedroom and new bathroom addition, increasing the average height from 15'10" to 16'1" where the subject lot is legally non-conforming for residential density and an Administrative Use Permit to allow a hot tub.

**Applicant:** John Crowl, 4284 Appian Way, El Sobrante, CA 94803  
**Property Owner:** Joan Alexander, 1511 Ada St., Berkeley, CA 94703  
**Zoning:** R-1, “Single Family Residential District”; **Planner:** Pamela Johnson

<table>
<thead>
<tr>
<th>Continued From:</th>
<th>None</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommendation:</td>
<td>APPROVE Use Permit #13-10000025 pursuant to Section 23B.32.040 and subject to the attached Findings and Conditions.</td>
</tr>
<tr>
<td>Action:</td>
<td>APPROVED on consent.</td>
</tr>
<tr>
<td>Motion / Second:</td>
<td>I. Tregub / R. Allen</td>
</tr>
<tr>
<td>Vote:</td>
<td>8-0-0-1 (Absent: G. Williams)</td>
</tr>
</tbody>
</table>

6. **2441 Haste Street**

**Use Permit #13-10000015** to restore the residential and commercial uses that existed by constructing a mixed-use development with 42 residential units and 5,791 sq. ft. of commercial space to include a full and quick serve restaurant within a four story mixed-use building.

**Applicant:** Kahn Design Associates, 1810 Sixth St., Berkeley, CA 94710  
**Property Owner:** Kenneth Ent, 2512 Telegraph Ave., Box 138, Berkeley, CA 94704  
**Zoning:** C-T, “Telegraph Avenue Commercial District”; **Planner:** Greg Powell

<table>
<thead>
<tr>
<th>Continued From:</th>
<th>None</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommendation:</td>
<td>APPROVE Use Permit #13-10000015 pursuant to BMC Section 23B.32.040 and subject to the attached Findings and Conditions.</td>
</tr>
<tr>
<td>Action:</td>
<td>APPROVED Use Permit #13-10000015 pursuant to BMC Section 23B.32.040 and subject to the attached Findings and Conditions.</td>
</tr>
<tr>
<td>Motion / Second:</td>
<td>S. Donaldson / R. Allen</td>
</tr>
<tr>
<td># of Speakers:</td>
<td>2</td>
</tr>
<tr>
<td>Vote:</td>
<td>6-0-2-1 (Abstain: A. Carreon, I. Tregub; Absent: G. Williams)</td>
</tr>
</tbody>
</table>
Appeal of Administrative Use Permit(s):

<table>
<thead>
<tr>
<th>7.</th>
<th>1924 Fairview Avenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appeal of Administrative Use Permit #13-20000025 to relocate a two-story, 2,165 square-foot, single family dwelling from the front (northwest) of the lot to the rear (southeast) of the lot.</td>
<td></td>
</tr>
<tr>
<td>Applicant: Kristin Personett, Indigo Design Group, 6140 Johnston Dr., Oakland, CA 94611</td>
<td></td>
</tr>
<tr>
<td>Property Owner: Brian Murphy, 1924 Fairview Ave., Berkeley, CA 94703</td>
<td></td>
</tr>
<tr>
<td>Appellants: Michelle and Edwin Cooper, 6521 Dover St., Berkeley; Beatrice Barrigher, 1922 Fairview Ave., Berkeley; Gwyneth Arnold, 1926 Fairview Ave., Berkeley; James Grant, 6531 Dover St., Berkeley; Kansas Lawrence, 6525 Dover St., Berkeley; Leonard Powell, 1911 Harmon St., Berkeley</td>
<td></td>
</tr>
<tr>
<td>Zoning: R-2A, “Restricted Multiple-Family Residential District”; Planner: Claudine Asbagh</td>
<td></td>
</tr>
</tbody>
</table>

Continued From: 06/27/2013

Recommendation: CONTINUE to 08/08/2013

Action: CONTINUED to August 8, 2013.

Motion / Second: I. Tregub / R. Allen

Vote: 8-0-0-1 (Absent: G. Williams)

Additional Agenda Items:

The following agenda items may be discussed, but no action may be taken unless a specific item is listed on this agenda.

A. Information/Communication
B. Discussion Item
C. Business Item
D. Chairperson’s Report
E. Current Business/Committee Appointment
F. Future Agenda Items
G. Other Matters

Adjourn: 8:50 PM
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 4:00 pm the 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: Terry Blount, AICP, 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.