Planning and Development Department
Land Use Planning Division

Action Minutes

Zoning Adjustments Board
Thursday October 23, 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
Present: J. Anthony, T. Doran, D. Matthews (arrived at 7:05 PM), R. Judd, S. Wilson, S.
Shumer, M. Cohen, M. Riera
Absent: J. Arreguin, B. Allen
Substitute: M. Riera (for B. Allen)

Public Attendance: ~50

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 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.

Item 2. 2573 Virginia moved to Consent Calendar for a Continuance
Item 4. 1906-08 Shattuck moved to Consent Calendar for a Continuance
Item 5. 2727 College moved to Consent Calendar for Approval

1. Approval of Previous Meeting Minutes
Minutes from 10-06-08 ZAB Meeting

Recommendation: Approve Minutes
Action: Approved Minutes (6-0-1-2; Abstain: M. Riera; Absent: D. Matthews, J. Arreguin)

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:

2. 2573 Virginia
Applicant: Zia and Farideh Sabetimani, 80 Poplar Street, Berkeley CA
Use Permit #08-10000038 to construct a new 2-story, approximately 1,580 square-foot main building with a 5-car garage and one dwelling unit, on a site with an existing two-story, approximately 3,000 square-foot, four-unit apartment building; (R-3H, LB)
Continued From: 10/06/2008
Recommendation: Continue to 11/13/2008
Action: Continued to 11/13/2008 on Consent (8-0-0-1; Absent: J. Arreguin)
3. **1612-14 Francisco**  
**Applicant:** Adlai Leiby, 1616 Francisco Street, Berkeley, CA 94703  
Use Permit 08-10000068 to construct a single story, 1,000 sq. ft. dwelling unit on a 13,500 sq. ft. lot with three existing dwelling units and to reduce the building separation from 12' to 11' for the proposed unit. (R-2, EJS).  
**Continued From:** On 9/23/2008 Board approved but subsequently voted to reconsider decision and continued to 10/23/2008  
**Recommendation:** Approve  
**Action:** Approved (8-0-0-1; Absent: J. Arreguin)  

**Compliance Determination:** NONE  

**New Hearings:**

4. **1906-08 Shattuck**  
**Applicant:** Steve Tipping, 1906 Shattuck Ave., Berkeley, 94704  
Use Permit/Variance #08-10000067 to construct a 7,591 square foot, 3-story addition to an existing commercial building at 1906 Shattuck; retail or office use proposed on ground floor, office on upper floors; parking waiver of 15 spaces requested; (C-1, AS)  
**Continued From:** NONE  
**Recommendation:** Approve  
**Action:** Continued to 12/01/2008 on Consent (8-0-0-1; Absent: J. Arreguin)  

5. **2727 College**  
**Applicant:** Maybeck High School, 2362 Bancroft Way, Berkeley, CA 94704  
Use Permit #08-10000088 to use 7,200 sq. ft. of floor area in an existing church facility to accommodate a private high school for up to 140 students and to eliminate a dwelling unit and change the floor area to an educational use; (R-2, SBR/ND)  
**Continued From:** NONE  
**Recommendation:** Approve  
**Action:** Approved on Consent (8-0-0-1; Absent: J. Arreguin)
Additional Agenda Items:
A. Information/Communication

6. 740 Heinz
   Applicant: Chris Barlow, Wareham Development 1120 Nye Street, Suite 400
   San Rafael, CA 94901
   Use Permit #05-10000017 to demolish the existing single-story, 9,600 square foot City of
   Berkeley Landmark (the Garr Building or Copra Warehouse) and construct a 88,000 square
   foot building to contain research and development laboratories and pilot manufacturing
   facilities, with at least 10,000 square feet of warehouse floor area. (MU-LI; GP)
   Continued From: NONE
   Recommendation: Project Preview: Board’s comment on applicant’s proposal
   Action: Board made comments regarding the applicant’s proposal

   • Parks Recreation & Waterfront Dept. notice for Community Input Opportunity:
     Citywide Pools Master Plan
   • 15th Annual Report on the Status of the Development Agreement between the
     City of Berkeley and Bayer HealthCare

B. Business Meeting
C. Chair’s Report
D. Current Business/Committee Appointment
E. Future Agenda Items
F. Other Matters
G. Adjourn 8:15 PM

[Approved for posting by Steven D. Ross, Secretary, Zoning Adjustments Board]

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.