

THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:00 PM, MONDAY, APRIL 08, 2024 BY CHAIR MCALPINE.

The minutes from this meeting are in summary form capturing the actions taken on each agenda item. To view the meeting discussions in their entirety, this meeting is broadcasted on the city's government access channel, WBRK, every day at 9AM and 9PM. The video can also be seen on-demand on the city's YouTube channel: <https://www.youtube.com/user/cityofberkeley>

PRESENT:

Sue McAlpine
Joseph Krug
Joann Serr
Erick McDonald

Kevin Wilner
Andrew Creal
Steve Allen

ABSENT:

ALSO, PRESENT:

Kim Anderson, Zoning Administrator

CONFIRMATION OF QUORUM MET

APPROVAL OF AGENDA

Motion to approve the agenda as presented by Allen, and supported by Krug.

Voice vote to approve the agenda.

AYES: 7
NAYS: 0
ABSENT:

MOTION CARRIED

APPROVAL OF MINUTES

Motion to approve the minutes of the February 12, 2024 regular meeting by Krug and supported by Wilner.

Voice vote to approve minutes

AYES: 7
NAYS: 0
ASBENT:

MOTION CARRIED

OLD BUSINESS

None

NEW BUSINESS

1. Application Number PBA-04-24

Applicant Flame Furnace, representing 1957 Edgewood Blvd, Parcel #25-17-176-005, South side of Edgewood Blvd., between Henley Ave. and Mortenson Blvd. is requesting a non-use variance for a side yard generator.

Zoning Ordinance: Chapter 138, Article III, Division 1.5 Exterior Appliances was adopted March 1, 2021 by City Council and effective April 1, 2021. 138-73 (a) (1) Power generators and other exterior appliances shall be located in the rear yard at least six feet from side property line

Rear yard setback. A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the *rear lot line and the nearest line of the main building.* The rear of the main building has different extending points and would be required to go from the furthest point horizontal.

Zoning Administrator, Kim Anderson provided the Zoning Board of Appeals an overview of the non-use variance request for a side yard generator already installed by Flame Furnace.

APPLICANT PRESENTATION

Flame Furnace was not present. Roman Przekop, owner of 1957 Edgewood presented to the Zoning Board or Appeals the need for the variance is due to the lack of alternative locations from landscaping and operable doors and windows. Landscaping at the back of the house would have required substantial movement to be placed behind the house.

The Zoning Board of Appeals members asked the applicant specific questions pertaining to the circumstances of the already installed generator in the side yard rather than the rear yard.

Member Allen expressed the concern of contractors performing work prior to approval and then applying for a variance.

Members asked about procedural ramifications to the contractor from the city. Ms. Anderson reported that along with the violations, tickets could be issued.

Chair McAlpine opened the floor for the public hearing at 7:21 p.m.

PUBLIC COMMENT

One Public correspondence from resident Jack Blanchard was received. Correspondence was not read. Jack Blanchard chose to speak.

Jack Blanchard, 1927 Edgewood Blvd., Berkley in support for the variance. Testing is not a concern, generator cannot be heard from his house. There is a distance of 45 feet from his house to generator.

Roman Przekop spoke again informing board that visibility will be screened and will not be visible from the street and the Blanchard's residence.

Chair McAlpine closed the floor for the public hearing at 7:24 p.m.

Zoning Board of Appeals discussion:

Board members discussed various aspects of the generator on meeting the 5 standards required to granted a variance for a side yard installation including; possible locations it could go in the back yard, gas line, and landscaping modifications. Board members discussed what could be considered unique characteristics of the property and if practical difficulty has been demonstrated.

Zoning Administrator, Anderson went over that "Rear Yard" is not currently defined in the zoning ordinance and historically has been determined as the rear yard measured from the furthest line of the main building extending across the full width of the lot horizontally.

Creal stated that there is not enough evidence to be able to confirm that there is an alternate location to make it work.

Zoning Administrator informed the board that a postponement could be requested for more clarification and details to be obtained on the back to show another location may or may not work.

Roman Przekop requested a postponement.

Motion to Postpone to the May 13, 2024 meeting by Allen and supported by Serr.

AYES: Members; Krug, McDonald, Serr, Allen, Creal and Chair McAlpine

NAYS: Member Wilner

ABSENT:

Motion Amended to postpone to the June 10, 2024 meeting by Allen supported by Serr
Voice vote to approve the postponement to the June 10, 2024 meeting:

AYES: 5
NAYS: 2
ABSENT:

MOTION CARRIED

OTHER BUSINESS

1. Zoning Board of Appeals Rules of Procedure Amendment

Currently the Zoning Board of Appeals determination on cases are not validated until the minutes from the meeting are approved. As the Zoning Board of Appeals does not meet unless there is a case, it could end up being a couple of months for an approval of the meeting minutes for that cases meeting. When minutes are delayed until the next meeting, it can unnecessarily delay an appeal to circuit court. It is only after the meeting minutes are approved—that then the 21 day clock starts under MZEA MCL 125.3606.

With the proposed amendment to the Zoning Board of Appeals Rules of Procedures, the documentation of decision being signed at the end of the meeting for each case will validate the decision and start the 30 day clock to appeal to Circuit Court under MZEA MCL 125.3606.

Motion to approve amendment to Rules of Procedures by Allen and supported by Wilner

Voice vote to approve amendment to the Rules of Procedures

AYES: 7
NAYS: 0
ABSENT:

MOTION CARRIED

STAFF/BOARD MEMBER REPORT

Community Development Monthly Report for January and February 2024
Zoning Ordinance Steering Committee Activity update for February and March 2024
An update on the draft Steering Committee package being due in the next few weeks.

LIAISON REPORT

Dennis Hennen was not at the meeting. Zoning Administrator, Kim Anderson read an email provided by Dennis Hennen to update the board on City Manager, Matt Baumgarten's resignation and Interim City Manager, Nate Geinzer.

PUBLIC COMMENT

NONE

With no further business, the meeting was adjourned at 8:00 p.m.

Motion by Wilner and support by Creal

Voice Vote to adjourn

AYES: 7

NAYS: 0

ABSENT:

MOTION CARRIED
