

THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:00 PM, MONDAY OCTOBER 10, 2022 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: Erick McDonald Kevin Wilner
Sue McAlpine Miles Uhlar
Joseph Krug Maria Ward
Joann Serr

ABSENT: NONE

ALSO PRESENT: Kristen Kapelanski, Community Development Director
Kim Anderson, Community Development
Dennis Hennen, City Council Liaison
Javon Hunter, 3565 Phillips, Berkley

APPROVAL OF AGENDA

Motioned to approve the agenda as presented by Mr. Krug and supported by Ms. Serr.

Voice vote to approve the agenda

AYES: 7
NAYS: 0
ABSENT: NONE

MOTION CARRIED

APPROVAL OF MINUTES

Motioned to approve the minutes of the August 9, 2022 regular meeting by Ms. Ward and supported by Mr. Uhlar.

AYES: Wilner, Ward, Uhlar, McDonald, Serr
NAYS: 0
ASBENT: NONE
ABSTAIN: Krug, McAlpine

MOTION CARRIED

OLD BUSINESS

NONE

NEW BUSINESS

1. APPLICATION PBA-10-22; 3565 Phillips Ave. – Dimensional variance(s) to construct an addition

Javon Hunter, Parcel #04-25-07-382-047, 3565 Phillips Ave., west side of Phillips Ave., between Twelve Mile Rd. and Edwards Ave., is requesting dimensional variance(s) to allow the construction of a second

story addition and attached garage to a non-conforming structure in the required rear yard and side yard setbacks. The proposed rear setback is 30 feet and 35 feet is required. The proposed side yard setback is 4.4 feet and 5 feet is required.

Community Development Director Kapelanski provided an overview of what was applied for and proposed.

APPLICANT PRESENTATION

John Jacobi - designer

Mr. Jacobi, presented and noted the narrowness of the lot with the existing house that is non-conforming and a custom garage as hardships.

The Zoning Board of Appeals asked the applicant specific questions pertaining to the circumstances. The applicant was asked if they could accommodate the required rear yard setback. The applicant stated that it's too tight of a turn for the garage.

Chair McAlpine opened the floor for the public hearing at 7:13 p.m.

Matthew Desmond, 3551 Phillips - In support of this and thinks this is a great idea

Chair McAlpine closed the floor for the public hearing at 7:15 p.m.

In the matter of PBA-10-22 for 3565 Phillips Ave., motion by Mr. Wilner to approve the requested variance from Section 138-526 and Section 138-154 of the City of Berkley Zoning Ordinance to permit a side yard setback of 4.4 feet where 5 feet is required with the following findings:

1. The need for the variance is due to unique circumstances or physical conditions of the property.
2. The need for the variance is not the result of actions of the property owner or previous property owners.
3. Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.
4. The requested variance is the minimum variance necessary to do substantial justice to the application as well as other property owners.
5. The requested variance will not adversely impact the surrounding properties.

Motion was supported by Ms. Ward

AYES: Krug, McDonald, McAlpine, Uhlar, Ward, Wilner, Serr

NAYS: 0

ASBENT: NONE

MOTION CARRIED

In the matter of PBA-10-22 for 3565 Phillips, motion by Mr. Krug to deny the requested variances from Section 138-526 and Section 138-154 of the City of Berkley Zoning Ordinance to permit a rear yard setback of 30 feet where 35 feet is required based on the following findings:

1. The need for the variance is not due to unique circumstances or physical conditions of the property.
2. The need for the variance is the result of actions of the property owner or previous property owners.
3. Strict compliance with the ordinance will not unreasonably prevent the property owner from using the property for a permitted purpose or will not render conformity with those regulations unnecessarily burdensome.
4. The requested variance is not the minimum variance necessary to do substantial justice to the application as well as other property owners.

5. The requested variance will adversely impact the surrounding properties.

Motion was supported by Ms. Ward

AYES: McAlpine, Uhlar, Ward, Wilner, Serr, Krug, McDonald

Nays: 0

ABSENT: NONE

MOTION CARRIED

In the matter of PBA-10-22 for 3565 Phillips Ave., motion by Ms. Ward to approve the requested variances from Section 138-526 and Section 138-154 of the City of Berkley Zoning Ordinance to permit the expansion of a non-conforming structure that does not conform to applicable Zoning Ordinance regulations based on the following findings:

- 1. The need for the variance is due to unique circumstances or physical conditions of the property.
- 2. The need for the variance is not the result of actions of the property owner or previous property owners.
- 3. Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.
- 4. The requested variance is the minimum variance necessary to do substantial justice to the application as well as other property owners.
- 5. The requested variance will not adversely impact the surrounding properties.

Motion was supported by Mr. Wilner

AYES: Uhlar, Ward, Wilner, Serr, Krug, McDonald, McAlpine

NAYS: 0

ABSENT: NONE

OTHER BUSINESS

NONE

STAFF/BOARD MEMBER REPORT

Community Development Director Kapelanski introduced Kim Anderson as the Zoning Administrator. City Council recently adopted the second reading of the sign ordinances telling the two changes that happened and would be pertinent to the Zoning Board of Appeals.

LIAISON REPORT

NONE

PUBLIC COMMENT

NONE

With no further business, the meeting was adjourned at 7:29 p.m.