

**THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS WAS
CALLED TO ORDER AT 7:00 PM, MONDAY, OCTOBER 13, 2025 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: <http://www.youtube.com/CityofBerkley>.

PRESENT:

Sue McAlpine
Andrew Creal
Joseph Krug
Joann Serr

Kevin Wilner
Jason Benedict, Alternate
Lorene Branch, Alternate

ABSENT:

Steve Allen
Eric McDonald

ALSO, PRESENT:

Kim Anderson, Zoning Administrator
Dennis Hennen, Liaison

CONFIRMATION OF QUORUM MET

APPROVAL OF AGENDA

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

Voice vote to approve the agenda.

AYES: 7
NAYS: 0
ABSENT: 2

MOTION CARRIED

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APPROVAL OF MINUTES

Motion to approve the minutes of the August 11, 2025 regular meeting by Krug and supported by Serr.

Voice vote to approve minutes

AYES: 6
RECUSE: 1 Wilner
NAYS: 0
ASBENT: 2

MOTION CARRIED

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OLD BUSINESS

None

NEW BUSINESS

1. Application Number PBA-07-25

F & L Berkley, LLC, 2114 Eleven Mile Rd, Parcel # 04-25-17-358-017, North side of Eleven Mile Rd. between Berkley Ave. and Henley Ave., is requesting a variance on the required front setback for Pump Islands per 8.05.C.1.

The applicant is requesting Dimensional Variance of 14 feet on the required front setback for Pump Islands per 8.05.C.1

Per Berkley City Code, Zoning Ordinance, Chapter 138 Zoning, Article 8, Section 8.05C.1 Automotive Uses Setbacks: Pump Islands front setback 30 feet is required.

Zoning Administrator, Kim Anderson provided the Zoning Board of Appeals background on 2114 Eleven Mile Rd. The Zoning Districts has changed as of April 16, 2025 to Flex and the use is permitted with a Special Land Use Approval. The Planning Commission recommended approval August 26, 2025 and City Council approved the recommended Special Land Use for 2114 Eleven Mile Rd. on September 8, 2025 with the condition of the ZBA granting a variance for the location of the pump islands.

Board member Wilner asked for clarification on the City Council approval where the synopsis minutes for the City Council meeting indicated matter of considering approval. Liaison Hennen confirmed that the motion was for approval. Member Serr asked if there was any insight on the reason for the front setback for the pumps to be at 30 feet. Anderson did not have any insight other than the 30 feet requirement is in the current Design Standards. Chair McAlpine asked if there were any safety concerns to be considered on the 14 feet deficiency. Anderson indicated that there were no safety concerns that were presented to the Planning Commission by Kristen Kapelanski in the packet to the Planning Commission for their recommendation. Branch asked if other gas stations have a nonconformity on pump locations. Krug confirmed that he drove the City and other stations do not have nonconforming front setback locations on pumps; BP at Catalpa and Coolidge, Marathon on 12 Mile, pumps are right at the sidewalk.

Chair McAlpine stated the five standards that have to be met in order for a variance to be granted.

APPLICANT PRESENTATION

Applicant Fadi Kajy presented the case to the Zoning Board of Appeals and answered various questions regarding the history on the parcel purchased three years ago. The variance request is for 14 feet on the location of the pumps that are existing.

Serr asked applicant if relocating the pumps has been considered.

Applicant explained that any reconfiguration would eliminate all but one pump because of the location of the underground tanks and pumps cannot be placed on top of tanks.

Creal asked for clarification that it is not an issue of cost but logistically impossible to relocate pumps. The applicant confirmed that is correct.

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

PUBLIC COMMENT

No public correspondence:

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

Zoning Board of Appeals discussion:

Zoning Board of Appeals members discussed; the five standards to be met and agree all five standards are met.

Motion to approve a dimensional variance of 14 feet on the required 30 feet front setback on pump islands along with any conditions set by the Planning Commission or City Council by Wilner and supported by Krug.

Approval

*In the matter of PBA-07-25, 2114 Eleven Mile Rd., parcel 25-17-358-017, motion to approve the requested dimensional variances from Section 138-8.05.C.1 of the City of Berkeley Zoning Ordinance to grant a dimensional variance of 14 feet under **Section 138-8.05.C.1** 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.*

AYES: Members: Branch, Creal, Krug, Benedict, Serr, Wilner and Chair McAlpine

ABSENT: Allen and McDonald

MOTION CARRIED

2. Application Number PBA-10-25

Donald & Virginia M. Vensel, 3978 Kenmore Rd, Parcel # 04-25-07-434-040, East side of Kenmore Rd., between Edwards Ave. and Morrison Ave., is requesting a 2.6' dimensional variance to an accessory structure side yard requirement of 5'.

The applicant would like to convert the original garage, that was to be torn down, into an open air covered patio accessory structure that has a side yard setback of 2.4 feet rather than 5 feet unless proper fire

separation has been installed per 9.15.A2 and 9.09A.5b.

Per Berkley City Code, Chapter 138 *Zoning*, Article 9, Section 9.15.A.2 setbacks: *The structures must be located in a manner to meet the required setbacks and locations for an accessory structure; however, the structures do not require separation distance from the principal structure or a swimming pool*

Zoning Administrator, Kim Anderson provided the Zoning Board of Appeals background on 3978 Kenmore Rd. on the lot combination and permits issued for the construction of a new garage and demolition of the existing garage.

Member Serr informed the board that a brief conversation occurred with the neighbor to the North expressing her opinion to Serr and the neighbor is present in the audience. The board agreed that the conversation had no impact on Serr remaining neutral on the case.

APPLICANT PRESENTATION

Applicants Donald and Virginia Vensel presented the case to the Zoning Board of Appeals and answered various questions regarding the parcel.

Applicant expressed that they would like to convert the existing garage, that was to be torn down into an open gazebo for an outdoor seating area.

Serr asked about any other seating area behind the house. Applicant indicated that there is. Wilner asked the applicant in regards to the condition that the new garage permit was based on the demo of the existing garage, why it was never completed. Applicant indicated that it was originally being used for storage while the new garage was being built and then decided to utilize the existing structure and concrete slab for additional usage for the family.

Virginia Vensel spoke about how they decided to utilize the existing roof structure for a covered area.

Serr asked if there are plans to change the look of the structure. Applicant indicated yes, that they plan to strengthen it up upon approval of the variance and obtain a building permit. They would like to do something similar to Bacon Parks Pavilion.

Chair McAlpine opened the floor for the public hearing at 7:25 p.m.

PUBLIC COMMENT

No public correspondence.

In Person:

Cindy Gunnip, 3992 Kenmore spoke in support of the variance request.

David Kalish, 3964 Kenmore spoke in support of the variance request.

Chair McAlpine closed the floor for the public hearing at 7:28 p.m.

Zoning Board of Appeals discussion:

Zoning Board of Appeals members discussed the five standards to be met.

The need for the variance ~~is not~~ is the result of actions of the property owner or previous property owners. The variance request is due to the property owner not removing the accessory structure per the condition of the permit issued for the newly constructed accessory structure.

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. The property with the Dwelling and new garage can be used for the permitted purpose.

The need for the variance is NOT due to unique circumstances or physical conditions of the property

The requested variance is NOT the minimum variance necessary to do substantial justice to the application as well as other property owners.

Motion to deny a dimensional variance of 2.6 feet on the required 5 feet side yard setback on accessory structures by Benedict and supported by Serr.

*In the matter of PBA-10-25, 3978 Kenmore Rd., parcel 04-25-07-434-040, motion to deny the requested dimensional variances from Section 138-9.15.A.2 of the City of Berkley Zoning Ordinance to grant a dimensional variance of 2.6 feet under **Section 138-9.15.A.2** that does not conform to applicable Zoning Ordinance regulations based on the following findings:*

The need for the variance is the result of actions of the property owner or previous property owners.

OTHER BUSINESS

STAFF/BOARD MEMBER REPORT

Community Development Monthly Report for July 2025 and August 2025

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LIAISON REPORT

Dennis Hennen:

- Will take an action item on evaluating the ordinance on pump locations and creating nonconformities on existing stations.
- Informed the Board that Council approved some amendments for minor clean-ups on discrepancies and clarifications on the newly adopted Zoning Ordinance.
- Informed the Board on the negotiations with the Columbia development of tax incentives under a PILOT program for all 51 units to be attainable, meaning the average person in Berkley would be able to afford the rent.

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PUBLIC COMMENT

NONE

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With no further business, the meeting was adjourned at 7:41 p.m.

Motion by Krug and support by Serr

Voice vote to adjourn

AYES: 7

NAYS: 0

ABSENT: 2

MOTION CARRIED

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