

**THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:00 PM, MONDAY, October 14, 2024 BY CHAIR MCALPINE**

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*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 Kevin Wilner  
Joseph Krug Andrew Creal  
Joann Serr Steve Allen  
Erick McDonald

**ABSENT:** None

**ALSO, PRESENT:** Kristen Kapelanski, Community Development Director  
Dennis Hennen, Liaison

**CONFIRMATION OF QUORUM MET**

**APPROVAL OF AGENDA**

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

Voice vote to approve the agenda.

AYES: 7  
NAYS: 0  
ABSENT: 0

**MOTION CARRIED**

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**APPROVAL OF MINUTES**

Motion to approve the minutes of the August 13, 2024 regular meeting by Krug and supported by Serr.

Voice vote to approve minutes

AYES: 7  
NAYS: 0  
ASBENT: 0

**MOTION CARRIED**

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## **OLD BUSINESS**

None

## **NEW BUSINESS**

- 1. Application Number PBA-14-24 Prime Management, 2400 Greenfield Rd., Parcel # 25-18-301-031, East side of Greenfield, between Oxford Rd. and Catalpa Dr., in the Greenfield District is requesting Sign variances**

The applicant is requesting a non-use sign variance to allow wall signs for the multi-tenant office in addition to the future monument sign to be constructed by the road with the address and complex name. *Berkley City Code*, Chapter 97 Signs: 94-7 (a) *Number permitted*. For each side of street frontage, one sign requiring a permit shall be permitted; Greenfield District 94-7 (h) Wall Signs – 6 square feet - For buildings with more than one business in occupancy, the maximum sign area for each business shall be 6 square feet. The total sign area must be equal to or less than 18 square feet.

Community Development Director, Kristen Kapelanski provided the Zoning Board of Appeals background on 2400 Greenfield. Development for a multi-tenant office building was approved in 2021 and construction has been in process for the last couple of years and they are now ready for signage. Only one sign per street frontage is permitted. The applicant would like a monument sign with the building complex name and address as well as wall signs for each tenant. As the Greenfield Districts allowance for wall signs is 6 square feet where in all other districts wall signs are permitted to be 10% of the adjoining wall associated with the business.

The applicant is requesting a variance to allow for additional signage and a variance to allow the wall signs to be larger than six square feet.

The proposed wall signs are:

Approximately 24 square feet (approximately 6% total wall area) for the two end units.  
Approximately 15 square feet (approximately 7% total wall area) on the four interior units.

Wall signs for the individual tenants at six square feet could be difficult to read from Greenfield with the higher speed of the five-lane road and the building front being set back 80 feet.

Wilner asked about the proposed new sign ordinance if larger wall sign would be permitted. Kapelanski explained under the proposed sign ordinance that 10% of the wall would be permitted in the Greenfield District.

Allen confirmed that it is a new building.

## **APPLICANT PRESENTATION**

Applicant Dan Winter of 2400 Trust for 2400 Greenfield presented the request for the new construction 4800 square foot building with 6 individual spaces and would like to have the wall signs be a uniformed look. Monument Sign will not have any tenant information on it. It would be a marker with the address and office complex name for visibility from the street.

Serr asked if the tenants will be able to pick the look of the sign and what is on the sign. The applicants plan is to keep uniformity. The tenant will obtain a permit for their signage within the established sign area.

Wilner confirmed that the monument would only be the address and asked about identification sign allowance. The applicant confirmed that it would be the address and the office complex name as a marker. Kapelanski explained identification sign are exempt with an allowance of 6 square feet and that the monument sign is not considered an identification sign. The monument sign is the one per street sign permitted and that it is the wall signs that are additional signage as well as the increase size allowed.

Allen is concerned that this is a new development and it is coming before the board.

Wilner asked if signage was on the approved site plan. Kapelanski explained that the Planning Commission would not have reviewed signage during site plan review. Signs are reviewed separately.

**Chair McAlpine opened the floor for the public hearing at 7:20 p.m.**

## **PUBLIC COMMENT**

No public correspondence:

Greg DuRoss of 3795 Bacon Ave spoke in regards to this is a new development and wondering why it is coming before the ZBA for a variance rather than it all determined at the beginning. DuRoss does not feel that there is a line of sight deficiency driving North bound or South bound on Greenfield. The board will be setting precedence if allowed.

Kapelanski cleared up that Signs are not reviewed at Site Plan Review. This is the typical procedure for signage to be reviewed later in the project and are a total separate review from the building development. Kapelanski pointed out to the Board that although the proposed new draft Zoning Ordinance on signage was discussed that it is in draft form, things are still be worked through and that only the standards are to be considered when making a determination.

Creal pointed out the Board does not make determinations based on precedence, it is on a case by case basis on meeting the standards.

Chair McAlpine stated that the case will be reviewed in accordance with how it is laid out and the standards, it is a unique situation and the request is to be based only on the condition and situation as the petition has been presented

Creal asked if it is rare for a variance to be requested for multiple tenants rather than tenant specific. Kapelanski agreed that usually it is tenant specific, but that the current ordinance for this zoning district did not anticipate a multi-tenant office building.

**Chair McAlpine closed the floor for the public hearing at 7:23 p.m.**

Zoning Board of Appeals discussion:

Kapelanski clarified to the Board that the applicant could have just the monument sign as permitted on street front signage. An example of the current ordinances need for updating is that the Greenfield District permits wall signs to only be 6 square feet and Identification signs that are normally an exempt signage are also six square feet. If the applicant even proposed to put up six square foot signage, a variance would be required for the wall signs being more than one per street frontage.

Creal feels that with just the discrepancy and confusion on the size of what this district allows as wall signs that are normally exempt, the requested signage meets standard B. Creal agrees with Allen in regards to his concerns on a brand new development needing to apply for a variance and this not handled at the time it was going through Site Plan Review.

Allen discussed how the Planning Commission does not do any review of signage at Site Plan Review.

Serr expressed that with GPS systems the address would be what is being looked for not the specific name.

Board read through the five standards

Motion to approve by Wilner and supported by Creal.

*In the matter of PBA-14-24, 2400 Greenfield Rd., parcel # 04-25-18-301-031, motion to approve the requested variances from City Code Chapter 94 Signs: Section 94-7 (a) and Section 94-7 (h) of the City of Berkeley City Codes to grant the allowance of additional signage where for each side of street frontage, one sign requiring a permit shall be permitted, as required, that does not conform to the applicable City Code regulations and to grant wall signs for a multi-tenant office space of 24 square feet and 15 square feet where 6 square feet, as required, that does not conform to the applicable City Code 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: Creal, Krug, McDonald, Serr, Wilner and Chair McAlpine

NAYS: Allen

ABSENT: none

**MOTION CARRIED**

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2. **Application Number PBA-15-24**  
**Prime Management, 3462 Greenfield Rd., Parcel # 25-07-355-043, East side of Greenfield, between Twelve Mile Rd. and Edwards Ave., in the Greenfield District is requesting Sign variances.**

The applicant is requesting a non-use sign variance to allow wall signs for the multi-tenant office in addition to the future monument sign to be constructed by the road with the address and complex name. *Berkley City Code*, Chapter 97 Signs: 94-7 (a) *Number permitted*. For each side of street frontage, one sign requiring a permit shall be permitted; Greenfield District 94-7 (h) Wall Signs – 6 square feet - For buildings with more than one business in occupancy, the maximum sign area for each business shall be 6 square feet. The total sign area must be equal to or less than 18 square feet.

Community Development Director, Kristen Kapelanski provided the Zoning Board of Appeals the background on 3462 Greenfield Development for a multi-tenant office building and is the same as the previous case for 2400 Greenfield.

For Meeting Minute record purpose:

The applicant is requesting a variance to allow for additional signage and a variance to allow the wall signs to be larger than six square feet.

The proposed wall signs are:

Approximately 24 square feet (approximately 6% total wall area) for the two end units.  
Approximately 15 square feet (approximately 7% total wall area) on the four interior units.

Wall signs for the individual tenants at six square feet could be difficult to read from Greenfield with the higher speed of the five-lane road and the building front being set back 80 feet.

### **APPLICANT PRESENTATION**

Applicant Dan Winter of North Green Trust for 3462 Greenfield presented the request for the new construction 4800 square foot building with 6 individual spaces and would like to have the wall signs be a uniformed look. Monument Sign will not have any tenant information on it. It would be a marker with the address and office complex name for visibility from the street.

Request for the wall signs is the same as the previous case for 2400 Greenfield.

**Chair McAlpine opened the floor for the public hearing at 7:35 p.m.**

### **PUBLIC COMMENT**

No public correspondence:

William Seaman 3461 Ellwood asked where the sign will be located on the building – it was clarified that the signs will be on Greenfield front.

Kapelanski stated that any lighting will be looked at through the electrical permit.

**Chair McAlpine closed the floor for the public hearing at 7:37 p.m.**

Creal talked through the visibility and that the application is the same as previous case and that the same standards apply.

Motion to approve by Serr and supported by Krug.

*In the matter of PBA-15-24, 3462 Greenfield Rd., parcel # 04-25-07-355-043, motion to approve the requested variances from City Code Chapter 94 Signs: Section 94-7 (a) and Section 94-7 (h) of the City of Berkeley City Codes to grant the allowance of additional signage where for each side of street frontage, one sign requiring a permit shall be permitted, as required, that does not conform to the applicable City Code regulations and to grant wall signs for a multi-tenant office space of 24 square feet and 15 square feet where 6 square feet, as required, that does not conform to the applicable City Code 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: Creal, Krug, McDonald, Serr, Wilner and Chair McAlpine

NAYS: Allen

ABSENT: none

**MOTION CARRIED**

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**3 Application Number PBA-16-24  
Katie Kutscher, 2945 Coolidge Hwy., Parcel # 25-18-233-035, West side of Coolidge Hwy., between Wiltshire Rd., and Beverly Blvd., is requesting a Parking variance for a Photography Studio.**

In addition to the report presented in the meeting packet, Kapelanski pointed out that there is no designated parking for the parcel. Any use going into this location will require a parking variance or shared parking agreement with a near-by business otherwise it is an unusable space. It is not within 500 feet of a municipal parking lot. With the background provided in the report, the building was built in 1947 prior to the City adopting a zoning ordinance. Kapelanski went over the history of previous businesses and parking. Kapelanski explained that as this property does not have any spaces, and the two spots that have been indicated on previous business licenses may have been from when the property to the North and this property were owned by the same owner, and may have been considered a unit and the spaces with the property to the North were counted. On street parking currently does not count as a credit. Kapelanski informed the board that the previous businesses as tattoo studios operated for many years and that staff feel that the photography studio would operate in the same manner with appointments and would not have any more impact than the previously operated businesses.

Allen asked if any shared parking has been documented with the County – Kapelanski answered that there has not been and that is typical of shared parking records.

Creal asked if the City takes a roll in obtaining additional parking agreements for properties as there is a parking lot a cross the street that has a large parking lot. Kapelanski explained that the City does not take a roll and that the current ordinance does not allow credit for spaces across a major thoroughfare.

**APPLICANT PRESENTATION**

Applicant Katie Kutscher, the Real Estate Agent representing the tenant, presented to the Board that three businesses have applied and have been denied due to no parking. Applications denied have been a child rehabilitation center (medical), a hair salon and now the photography studio. Applicant feels that this business is the best use for the space. The business is one employee, it is by appointment only, it is content creation and not a burden on the current street parking. Surrounding businesses have been approached for shared parking. Bagger Dave's is willing but it is across the street.

Wilner – Asked if they approached J's for parking. Applicant has left messages and thinks a lot of people approach them for additional parking. Applicant indicated that the Liquor store is willing to give two spots but the Liquor store does not have additional spots per their parking requirements.



Wilner confirmed current requirement for parking is one space per 200 square feet and asked about the requirements on the proposed rewrite parking requirements. Kapelanski confirmed that the proposed parking goes to one per 100 square feet but to keep in mind that parking credit in the new ordinance will include parking across major thoroughfares (shared or municipal) and on street spaces will be credited. Only a tattoo shop would have been permitted as a legal non-conforming business for six months.

Chair McAlpine asked how many appointments and hours of operation. Applicant explained the business owner has a successful business of doing wedding photography, makeup and hair and is now branching off to a studio and hopes to be able to expand. It is by appointment only and the studio will be only photography.

Serr and Chair McAlpine asked about the expanding from one to three employees if that would be all at the same time. Applicant said no but she cannot speak for the tenant in regards to future plans.

**Chair McAlpine opened the floor for the public hearing at 7:50 p.m.**

### **PUBLIC COMMENT**

Public correspondence received:

Email from Kim Albert Dehne, 2955 Coolidge Hwy., not in support

No additional public comment

**Chair McAlpine closed the floor for the public hearing at 7:52 p.m.**

Zoning Board of Appeals discussed various items pertaining to the history of the parcel, current parking requirements and the proposed new parking requirements and possible parking scenarios of the business. Kapelanski pointed out that the proposed zoning ordinance rewrite is still in draft form and areas are being addressed and this would be one. The proposed ordinance has photography with adult use and has parking at one per 100 square feet. Kapelanski explained that there are situations of no parking throughout the City whether the building was built prior to ordinance adoption or from splits and that with the new proposed ordinance it will hopefully open up other options that the current ordinance does not permit.

Serr suggested conditions such as employee's park off site. Kapelanski explained that the variance can be subject to conditions but cannot be against current ordinances for parking such as requiring employees to park across the street when the ordinance does not currently count parking across a major thoroughfare. And secondly regulating that kind of condition would be near impossible to enforce.

Motion by Allen to approve, supported by Wilner

*In the matter of PBA-16-24, parcels 04-25-18-233-035, motion to approve the requested variances from Section 138-219 (3) Commercial of the City of Berkley Zoning Ordinance to permit a parking variance 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; Krug, Wilner, Allen, Creal and Chair McAlpine  
NAYS: McDonald, Serr  
ABSENT: None

**MOTION CARRIED**  
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**OTHER BUSINESS**

**1. 2025 ZBA Meeting Dates**

Motion to approve the proposed 2025 Zoning Board of Appeals meeting dates with the understanding that upon approval of Councils 2025 meeting schedule, any conflict of dates will be amended by Wilner and supported by Serr.

Voice vote to approve minutes

AYES: 7  
NAYS: 0  
ASBENT: 0

**MOTION CARRIED**  
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**STAFF/BOARD MEMBER REPORT**

Community Development Monthly Report for July, August and September 2024

Zoning Ordinance Steering Committee Activity update: Final draft will be submitted. There will be a public engagement at the Downtown Berkley Monster Mash, planning commission public hearing and then council for adoption – looking at approximately December. Any comments please email Kristen rather than putting any further comments on google drive.

Alternates – Lorene Branch was appointed as a ZBA Alternate at the September Council meeting - still need one more alternate.

Next meeting – November 12, 2024 – no cases

Member Allen spoke out about the LaSalette Building conversion and the new building complexes behind and how well they talk to one another and what a great job anyone involved did on the projects.

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**LIAISON REPORT**

Dennis Hennen – Showed appreciation to the Board for working through the cases and that with the draft of the Zoning Ordinance rewrite there will be items that may need to be worked out and even once it is passed there may be things that are missed with how complex it is that may need to go before the ZBA as it gets worked through.

Short Term Rental Ordinance was passed adding a few regulations as well as the Parking Regulations on overnight parking.

**PUBLIC COMMENT**

NONE

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**With no further business, the meeting was adjourned at 8:08 p.m.**

Motion by Allen and support by Wilner

Voice vote to adjourn

AYES: 7

NAYS: 0

ABSENT: 0

**MOTION CARRIED**

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