

**A MEETING OF THE ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:32 PM,
JULY 14, 2014 AT CITY HALL BY CHAIRPERSON BAILEY.**

PRESENT: Zachary Massad Dean Smith
Greg Butts Barbara Morris
Linda Bailey Paul Evans

ABSENT: Mike Kerby

ALSO PRESENT: Mark Adler, 401 S. Old Woodward, Birmingham
Sheri Bialk, 3642 Bacon
Bailey Geist, 3648 Bacon
Dominic Palazzolo, 27423 Woodward
Brian Benke, 26423 Woodward
Alan Kideckel, Council liaison
Amy Vansen, City Planner

APPROVAL OF AGENDA

It was moved by Mr. Evans to approve the agenda.

Supported by Mr. Butts.

AYES: Massad, Butts, Morris, Evans, Smith, Bailey

NAYS: None

ABSENT: Kerby

Motion Carried.

APPROVAL OF MINUTES

It was moved by Mr. Smith to approve the minutes of December 9, 2013.

Supported by Ms. Morris.

AYES: Massad, Butts, Morris, Kerby, Evans, Smith, Bailey

NAYS: None

ABSENT: Kerby

Motion Carried.

It was moved by Mr. Massad to approve the minutes of February 10, 2014

Supported by Ms. Morris.

AYES: Massad, Butts, Morris, Kerby, Evans, Smith, Bailey

NAYS: None

ABSENT: Kerby

Motion Carried.

1. **Application Number BA-02-14** Mark Adler, Mark Adler Homes LLC, regarding the south 1/2 of Lot 440 of the Cottage Homes Subdivision, east side of Bacon, between 3666 and 3648 Bacon, is seeking a variance of Berkley City Code, Chapter 138 Zoning, Division 17 Schedule of Regulations, Section 138-527 Notes to schedule of regulations. (d) There shall be a distance of at least 15 feet between dwellings. The applicant is requesting this variance in order to construct a new house that will be 7.5 feet from the house to the south when 15 feet is required.

Mark Adler was present. Mr. Adler described the two lots and advised that the house at 3248 Bacon (not owned by him) is 2.5 feet from the side lot line. Since houses must be 15 feet apart, the house not owned by him, would result in his having to build a house only 17.5 feet wide, when a 25 foot house is a typical modern house in Berkley.

There was discussion relative to Mr. Adler's plans which showed a fireplace and an egress window further encroaching in the 5 foot side yard proposed. These features would be even closer than 7.5 feet to the neighbor.

There was discussion about overhangs and whether the City measures setback lines from the foundation or from the overhang.

The Board suggested that Mr. Adler reverse the house plan on the southern lot and provide 12.5 feet between dwellings instead. There was some discussion on whether the driveway would result in extra noise to the neighbor.

There was discussion regarding 24 foot wide houses versus 25 foot wide houses. Mr. Adler maintained that a 25 foot wide house is really the minimum width to build a house with the features that banks and buyers are looking for.

Chairperson Bailey opened the public hearing at 7:57 PM.

Bailey Geist, 3648 Bacon, indicated that he really wanted some green space and was very concerned about stormwater runoff. Mr. Adler explained that a curb would be installed along the south side of the driveway so that runoff was minimized. Mr. Geist advised that he would prefer the 12.5 feet distance with a driveway over the 7.5 feet without a driveway.

Sheri Bialk, 3642 Bacon, contended that the large newer houses do not fit into the neighborhood and do not have the charm that the older houses have.

Both neighbors expressed sadness that the large trees on the vacant lot would need to be removed.

Hearing no further comments, Chairperson Bailey closed the public hearing at 8:02 PM.

The Board discussed the fact that a compliant house could be built at this location and maintain the setbacks required; however no one would want to live in a new 17.5 foot wide house.

It was moved by Mr. Evans to approve BA-02-14 with the stipulation that the house on the

south 1/2 of Lot 440 of the Cottage Homes Subdivision be built 10 feet from the south lot line with the driveway on the south side. The house to be built on 3666 Bacon is approved as submitted. The house on the south 1/2 of Lot 440 is the reverse of 3666 Bacon. The practical difficulty being the unique circumstance that the house to the south is 2.5 feet from the lot line and the lot being the minimum size of 40 feet x 110 feet.

Supported by Mr. Butts.

AYES: Massad, Butts, Morris, Evans, Smith, Bailey

NAYS: None

ABSENT: Kerby

Motion Carried.

2. **Application Number BA-03-14** Allied Signs for BirmGroup Properties, 27423 Woodward, west side of Woodward, between Harvard and Cambridge, is seeking a variance of Berkley City Code, Chapter 94 Signs, Section 94-7 Signs Requiring Permits, (A) For each side of street frontage, one sign shall be permitted. The applicant is requesting this variance in order to have 2 signs one on the north side and one on the east side of the building.

Dominic Palazzolo, from Allied Signs, was present along with Brian Benke, owner of the building.

The applicant indicated that a previous variance (Case BA-02-00) allowed 2 wall signs (one of the north side, the other on the south side). The trees along Woodward have grown and currently block the view of the south side of the building. Furthermore, he feels that a sign on the front of the building is more appropriate. The sign on the north side is needed for wayfinding: a turn into the service drive north of the building necessitates the sign being visible well before a driver is next to the building.

There was discussion as to whether or not the sign on the south side was no longer visible.

There was much discussion as to whether or not the Board had the authority to change a previously approved variance.

There was no public comment.

It was moved by Mr. Smith to approve BA-03-14 with the following conditions:

- Legal review by the City Attorney
- The express understanding that this variance supersedes and does not add to the variance granted in 2000 (BA-02-00).
- No signage shall be installed on the south side of the building.

This practical difficulty being that the landscape on Woodward has changed since 2000.

Supported by Mr. Butts.

AYES: Massad, Butts, Morris, Evans, Smith

NAYS: Bailey

ABSENT: Kerby

Motion Carried.

OTHER BUSINESS

The Board reviewed changes to the City's informational brochure on the ZBA.

Mr. Massad announced that this would be his last meeting as he is moving out of the City.

Councilmember Kideckel thanked Mr. Massad for his service and let the Board know that the Community Picnic is this coming weekend and that the City Council meeting is on July 21st.

There being no further business, Chairperson Bailey adjourned the meeting at 9:28 PM.