CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL
APPROVAL OF AGENDA
APPROVAL OF MINUTES – Meeting of February 10, 2020
ITEMS FOR THE AGENDA

1. **MASTER PLAN:** Community engagement activity for the Master Plan and update on future community engagement activities.

2. **ELECTIONS:** Matter of electing a Chair and Vice Chair to the Zoning Board of Appeals.

3. **DISCUSSION:** Annual discussion regarding Rules of Procedure.

OTHER BUSINESS
LIAISON REPORT
PUBLIC COMMENTS
ADJOURN

Notice: Official Minutes of the Zoning Board of Appeals are stored and available for review at the Office of the City Clerk. The City of Berkley will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting upon four working days notice to the city. Individuals with disabilities requiring auxiliary aids or services should contact the city by writing or calling: City Clerk, ADA Contact, Berkley City Hall, 3338 Coolidge, Berkley, Michigan 48072, (248) 658-3300.
THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS
WAS CALLED TO ORDER AT 7:00 PM, MONDAY, FEBRUARY 10, 2020 AT CITY
HALL BY VICE 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/cityofberkley.

PRESENT: Joe Krug
        Michael Hanchett - Alternate
        Ryan Gesund
        Sue McAlpine
        Steve Allen
        Maria Ward - Alternate

ABSENT: Greg Butts
        Miles Uhlar
        Paul Evans

ALSO PRESENT: Erin Schlutow, Community Development Director
               Pamela Stasko, 2074 Columbia

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APPROVAL OF AGENDA
It was moved by Mr. Gesund to approve the agenda as presented. Motion was seconded by Mr.
Allen.

AYES: Gesund, Hanchett, Krug, Ward, Allen, McAlpine
NAYS: None
ABSENT: Butts, Uhlar, Evans

MOTION CARRIED

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APPROVAL OF MINUTES
It was moved by Ms. Ward to approve the amended minutes of January 13, 2020 and supported
by Mr. Gesund.

AYES: Hanchett, Krug, Ward, Allen, Gesund, McAlpine
NAYS: None
ABSENT: Butts, Uhlar, Evans
MOTION CARRIED

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REGULAR AGENDA

1. Application PBA-01-20; 2074 Columbia Rd.
Community Development Director Schlutow summarized February 2, 2020 review letter related to the variance request at 2074 Columbia Rd. The applicant is requesting a dimensional variance to construct a single-family residential dwelling that does not meet the minimum floor area requirement in the R-1D, Single Family Residential District. The applicant is proposing to demolish the existing non-conforming structure and to construct a new single-family dwelling that is less than the required 1,300 minimum square feet.

The applicant, Pamela Stasko, summarized the request and proposed project to construct a new single-family residence on the existing property.

Vice Chair McAlpine opened the Public Hearing at 7:10pm.

No comment.

Vice Chair McAlpine closed the Public Hearing at 7:10pm.

Mr. Allen noted the minimum floor area requirement is problematic and does not reflect the majority of homes within the City. The subject property has a shallow rear yard.

Mr. Krug stated the other homes on the block are setback at least 35 ft., which prohibits the applicant from moving the structure forward to the required setback line at 25 ft.

Mr. Gesund stated that the structural problems of the home could be construed as a practical difficulty and enjoyment of the home.

Mr. Hanchett stated that all other setback, height, lot coverage requirements will be met.

Ms. McAlpine explained the five review criteria for granting a variance.

Mr. Allen noted the desire for tiny homes for those individuals who want to age in place. Ms. McAlpine agreed and noted the single-story structure allows for ease of maneuvering within the reduced footprint.

Based on the finding of fact, it was moved by Ms. Ward to grant the requested variance, PBA-01-20, to reduce the minimum floor area requirement at 2074 Columbia Rd., as a
practical difficulty does exist on the property pertaining to the required front yard setback in line with the adjacent properties on the block, the size of the lot, and structural issues with the existing building, and the Standards for Review have been met. Supported by Mr. Allen

AYES: Krug, Ward, Allen, Gesund, Hanchett, McAlpine
NAYES: None
ABSENT: Butts, Uhlar, Evans

MOTION CARRIED

2. ELECTIONS

Mr. Allen suggested to defer the elections to the next full meeting when the full board can convene.

Vice Chair McAlpine agreed.

The matter of electing a Chair and Vice Chair will be moved to the March 2020 meeting date.

3. DISCUSSION

Ms. Ward gave praise to the Oakland County Zoning Board of Appeals training workshop that was attended by several members of the ZBA, including the Community Development Director.

Mr. Allen agreed that the Oakland County trainings are excellent.

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OTHER BUSINESS

None

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LIAISON COMMENTS

Community Development Director provided a summary of Councilmember Hennen’s comments, in his absence; including, the status of the marihuana ordinances and application process, the developers meeting, the public hearing notice ordinance, approval of a first reading of a conditional rezoning 1256 Franklin from RM to Parking to support a proposed marihuana business, and the status of the DDA Design Guidelines and Overlay District.
BOARD COMMENTS

Mr. Gesund praised the Department of Public Works and their response to the snowstorm. He also reminded the public that there is a primary election on March 10, and a ballot proposal for the DIA.

Ms. McAlpine noted that the City is looking for volunteers to work on election day.

Mr. Allen stated that he submitted his application to continue to serve on the Zoning Board of Appeals.

PUBLIC COMMENTS

None.

With no further business, Vice Chair McAlpine adjourned the meeting at 7:28 pm
MEMORANDUM

To: Berkley Zoning Board of Appeals
From: Erin Schlutow, Community Development Director
Subject: Master Plan Public Engagement Activity
Date: March 3, 2020

As part of the public engagement for the Master Plan, Carlisle Wortman and city staff have conducted the following activity with Parks and Recreation Board, Berkley Area Chamber of Commerce, and several business owners in the DDA in which four questions are asked to the group:

1. What do you LIKE about Berkley?
2. What would you like to see IMPROVED?
3. What do you think should be CHANGED?
4. What do you think is MISSING?

The activity allows for free form response and encourages group members to discuss the questions and interact collectively. Responses are written on a large easel pad at the front of the group, as it helps to prompt ideas and suggestions throughout the discussion.

Please brainstorm on the four questions above. The activity should take 15-20 minutes and will serve to assist Carlisle Wortman, the Master Plan Steering Committee, and the Planning Commission as we brainstorm long-range goals for the Master Plan.

If you have any questions about the activity, please do not hesitate to contact me.
MEMORANDUM

To: Berkley Zoning Board of Appeals
From: Erin Schlutow, Community Development Director
Subject: ZBA Election of Officers
Date: March 3, 2020

During the 2019 annual review of the Zoning Board of Appeals Rules of Procedure, it was determined that elections for Chair and Vice-Chair would henceforth take place at the January meeting rather than the July meeting, as was previous practice.

The reason for the change was attributed to when new members were appointed to the Board and the close proximity of voting for a Board officer. As new members are appointed in July, staggering the yearly election of officers would allow any new members the opportunity to get to know the Board members prior to voting.

The above rule of procedure was inadvertently overlooked for the January meeting and is presented at the February meeting.

Currently, Paul Evans serves as the Chair and Sue McAlpine serves as the Vice-Chair.
MEMORANDUM

To: Berkley Zoning Board of Appeals
From: Erin Schlutow, Community Development Director
Subject: ZBA Rules of Procedure – Review Discussion
Date: March 3, 2020

At the September 2019 meeting, the Zoning Board of Appeals reviewed and approved the amended Rules of Procedure that guide the ZBA on membership, duties, meeting procedures, public hearings, etc.

Section Seven – Annual Review was amended during the 2019 annual review, in which it was determined that the rules of procedure shall be reviewed annually at the January meeting, or if there is no January meeting, no later than the February meeting.

The above rule of procedure was inadvertently overlooked for the January meeting and is presented as a discussion item at the February meeting.

The current Rules of Procedure is available on the Google Drive.
SECTION ONE – AUTHORITY

The City of Berkley Zoning Board of Appeals (hereinafter referred to as the ZBA) adopts these rules of procedure pursuant to the Michigan Zoning Enabling Act, MCL 125.3101 et seq., as amended and the ordinances of the City of Berkley (as amended).

SECTION TWO - MEMBERSHIP

(1) Membership. Members shall be appointed according to the procedure as established by Berkley ordinances. The ZBA shall consist of seven regular members and two alternate members all to be appointed by City Council. An alternate member may be called as specified in the zoning ordinance to serve and vote as a member of the ZBA in the absence of a regular member. An alternate member may also be called to serve as a member for purposes of reaching a decision on a case in which a member has abstained for reasons of conflict of interest. Alternate members called upon to serve in instances of vacancy or conflict of interest shall do so on a rotational basis, starting with the most senior alternate.

a) Training. Each member is expected to attend a minimum of 4 hours of training every 3 years. Hours of training shall be tracked, documented by the Community Development Director, and published biannually in January and July of each year.

b) Materials. Upon taking office for the first time, each member shall receive and maintain the following written materials to be provided by the Community Development Director:

- A copy of the Zoning Board of Appeals-Rules of Procedure.
- Chapter 2 - Section 40 (Ethics), Chapter 94 (Signs) and Chapter 138 (Zoning) of the Berkley ordinances. The Community Development Director shall provide updated materials when available.
- The Zoning Board of Appeals Handbook published by the Michigan Municipal League
- Any other materials deemed necessary by the Community Development Director and approved by the Chair of the ZBA to familiarize a new member with the appeals process and the duties of the ZBA.

(2) Duties.

a) Attendance. Each regular and alternate member has a duty to attend all meetings.

- Members who are unable to attend must contact the Community Development Director prior the meeting and alert them to the cause of the absence.

b) Arrive prepared for the business at hand, having reviewed written materials and completed site visits as necessary to be educated on the agenda issues.

c) Ex Parte Contact. Members shall avoid Ex Parte contact concerning questions or matters pending before the ZBA.

d) Ex Parte Contact shall include discussions among members, applicants, or the public outside of a ZBA meeting, including emails, about matters pending before the ZBA.

SECTION THREE - MEETINGS

(1) Notices. Notice of meetings shall be provided in accordance with the Open Meetings Act. The notice shall include the date, time and place of the meeting.
a) The Community Development Director shall notify all members of the ZBA, including regular and alternate members, a minimum of 15 days prior to a scheduled public hearing, that a meeting is scheduled. Notice to members shall be by mail, phone or by e-mail.

b) Prior to the scheduled meeting date, the Community Development Director shall provide the agenda for the meeting and all documentation relevant to agenda items as well as any other information requested by the ZBA.

(2) Regular Meetings. Regular meetings of the ZBA shall be held monthly in the City Hall on the second Monday of every month at 7:00 p.m.

a) If there are no appeals, requests for variances or requests for interpretation of the zoning ordinance to consider, a regular meeting shall be postponed to the next (otherwise) regular meeting date when there are such requests to consider. All other business shall be held over to the agenda for the next regular meeting.

b) When a regular meeting date falls on or near a legal holiday or conflicts with a meeting of the Berkley City Council, the ZBA shall select a suitable alternate date in the same month, if possible, in accordance with the Open Meetings Act.

c) Meetings shall be presided over by the Chair or, in the absence of the Chair, the Vice Chair, or, in the absence of both the Chair and Vice Chair, the most senior member of the Zoning Board of Appeals present.

(3) Other Meetings. A special meeting can also be called by the Community Development Director, the Chair of the ZBA, or, in the Chair’s absence, the Vice-Chair.

(4) Membership. Any changes in Board membership will be announced prior to roll call.

(5) Quorum. In order for the ZBA to conduct business or take any official action, a quorum consisting of 4 voting members of the ZBA must be present unless a use variance is under consideration, in which case, a quorum shall be 5 voting members present. When a quorum is not present, no official action, except for closing of the meeting may take place. All items scheduled to be heard, shall be rescheduled for the next regular meeting. No additional public notice shall be required provided the date, time and place are announced at the meeting.

(6) Hearings. Hearings shall be scheduled and due notice given in accordance with the provisions of the Acts and ordinance cited in Section 1.

Public hearings conducted by the ZBA shall be run in an orderly and timely fashion. This shall be accomplished by the following procedure:

- Introduction of case by staff.
- The Chair confirms that the applicant is present and receives an opportunity to present the case.
- The Chair opens discussion. The ZBA may ask the applicant or staff questions.
- The Chair opens the public hearing. Each person must state his/her name and address for the record and may address the ZBA regarding the case for a reasonable period of time. The Chair may set a time limit and/or invite people to speak row by row to eliminate lines at the microphone.
- The Chair closes the public hearing.
- Discussion. The ZBA may ask staff or the applicant questions.
- The Chair shall call for a motion.
- After a motion has been made and supported, there may be additional discussion.
- The Chair will call for a roll call vote.

(7) Motions. The Chair shall restate motions before a vote is taken. The name of the maker and supporters shall be recorded. The motion shall state whether or not a practical difficulty or undue hardship has been found. The reasons for such a finding shall also be stated.
(8) Voting. The concurring vote of 2/3’s of the ZBA members shall be required for the approval of a use variance. The concurring vote of a simple majority of the ZBA members shall be required to reverse an order, requirement, decision, or determination of the zoning officer to approve a non-use variance, to decide in favor of the applicant on a matter upon which the ZBA is required to pass under the zoning ordinance, and for all other business. Voting shall be by roll call unless the Chair decides another method of voting would be appropriate. All members of the ZBA, including the Chair shall vote on all matters except as provided below. The order of the voting members shall be varied.

a) No member shall abstain from voting on any matter except in the case of a conflict of interest as provided below in Section 3 (12) of these rules.

(9) Conditions. The ZBA may modify a request or impose reasonable conditions designed to maintain the public health, safety and welfare.

(10) Withdrawals. In the event that an applicant withdraws an application after the notices have been sent and the meeting posted, the ZBA shall introduce the case and advise that the item has been withdrawn. A motion to accept the withdrawal will be entered. In the event that an applicant withdraws an application before the notices have been sent and the meeting posted, the ZBA shall receive a copy of the withdrawal, but no motion to accept the withdrawal shall be necessary.

(11) Dismissals. When the petitioner fails to appear at a properly scheduled meeting of the ZBA, the Chair may entertain a motion to dismiss the case for want of prosecution. In the absence of a motion, the Chair shall rule. In such cases, the petitioner will be furnished written notice of the action.

(12) Conflict of Interest. Per City of Berkley Code Section 2- 40 (Ethics), A ZBA member shall declare a possible conflict of interest and reasons for such, after the introduction of a case. The ZBA shall discuss and determine if such a conflict exists. Fellow ZBA members shall make and support a motion to excuse the ZBA member from deliberating. The excused member shall leave the meeting room during deliberation of the case. An alternate member may be called to serve as a member for the purpose of reaching a decision on the case. The excused ZBA member shall be called back prior to the introduction of the next case. In the event that the ZBA member is the applicant, then he shall be allowed to remain in the meeting to present his case.

a) Failure of a member to disqualify himself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

(13) Order of Business. A written agenda for all regular meetings shall be prepared as follows. The order of business shall be:

- Open the meeting – call meeting to order, confirm recorder, if any, is on
- Pledge of Allegiance
- Roll Call
- Confirmation of a Quorum
- Approval of Agenda
- Approval of Minutes – Each set of minutes shall be approved individually
- Old Business – Items that have been postponed or referred to staff
- New Business
- Other Business – Administration or ZBA members may discuss upcoming items or interpretation concerns unrelated to agenda items
- Staff Report
- Liaison Reports
- Public Comments
- Adjourn

(14) Rules of Order. All meetings of the ZBA shall be conducted in accordance with generally accepted parliamentary procedure, as governed by the most current edition of “Robert’s Rules of Order, Newly Revised.”
(15) **Notice of Decision.** The City shall send a copy of the approved minutes containing the ZBA decision and any conditions to the petitioner within five days of the minutes being approved.

**SECTION FOUR – OFFICERS**

(1) **Selection.** Annually, at the January meeting, the ZBA shall select by majority vote from its membership, a Chair and Vice-Chair. Officers shall be eligible for re-election. If there is no January meeting, then the officers shall be elected no later than a February meeting.

(2) **Duties.** The Chair shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein. If the Chair is not able to chair a meeting or portion of a meeting, the Vice-Chair shall act in place of the Chair for that meeting or portion of meeting.

   a) The Vice-Chair shall act in the capacity of the Chair and shall succeed to the office of Chair in the event of a vacancy in that office.

   b) If there is a vacancy in the office of Vice-Chair for whatever reason, the ZBA shall select a successor to the office of Vice-Chair at the earliest practicable time.

   c) The Community Development Director (from the Building Department of the City of Berkley) shall be responsible for the preparation of minutes, keeping of pertinent public records, delivering communications, petitions, reports and related items of business of the ZBA, issuing notices of public hearings and performing related administrative duties to assure efficient and informed ZBA operations.

(3) **Tenure.** The officers shall take office at the next meeting after their election. They shall hold their offices until their successors are elected and assume office.

**SECTION FIVE – MINUTES**

The minutes shall contain a synopsis of the meeting including a complete restatement of all motions and recording of votes; a complete statement of the conditions or recommendations made on any action; and recording attendance. All communications, actions, and resolutions shall be attached to the minutes. The official records shall be deposited with the City Clerk.

**SECTION SIX – OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS**

(1) All meetings of the ZBA shall be opened to the public and held in a place available to the general public.

(2) All deliberations and decisions of the ZBA shall be made at a meeting open to the public.

(3) A person shall be permitted to address a hearing of the ZBA under the rules established in section 3 (6) and to address the ZBA concerning non-hearing matters under the rules established under section 3 (13) to the extent that they are applicable.

(4) A person shall not be excluded from a meeting of the ZBA except for breach of the peace committed at the meeting.

(5) All records, files, publications, correspondence, and other materials are available to the public for reading, copying and other purposes as governed by the Freedom of Information Act.

**SECTION SEVEN – ANNUAL REVIEW**

These rules of procedures shall be reviewed annually, at the January meeting, or if there is no January meeting, no later than the February meeting.
Care shall be taken to insure that these rules shall not conflict with any federal or state law or City of Berkley ordinance; however, if any such conflict exists, then the federal or state law or city ordinance shall override these rules, but only to the extent of such conflict.

SECTION EIGHT – AMENDMENTS

These rules may be amended by the ZBA by a concurring vote pursuant to section 3 (8) during any regular meeting, provided that all members have received an advanced copy of the proposed amendments at least three days prior to the meeting at which such amendments are to be considered.