PUBLIC NOTICE

City of Berkley, Michigan
Regular Meeting of the Zoning Board of Appeals
Monday, December 13, 2021
7:00 PM – City Hall
Council Chambers
Information: (248) 658-3320

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL
CONFIRMATION OF A QUORUM
APPROVAL OF AGENDA
APPROVAL OF MINUTES – Meeting Minutes of August 10, 2021

OLD BUSINESS

1. ELECTIONS
Matter of electing a Chair and Vice Chair to the Zoning Board of Appeals.

NEW BUSINESS

1. APPLICATION PBA-09-21; 1069 Eaton – Use variance request for non-conforming duplex use of a property in the Single-Family Residential District that is no longer in compliance with the Zoning Ordinance

   Andrew Ball, 1069 Eaton, Parcel #25-17-431-003, south side of Eaton Road and east of Stanford Road, is requesting a use variance to allow a multiple-family use of a property located in a Single-Family R-1D District.

2. 2022 ZONING BOARD OF APPEALS CALENDAR DATES

OTHER BUSINESS

STAFF / BOARD MEMBER REPORT
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.

If you would like to Join Zoom Meeting: https://berkleymich.zoom.us/j/99706528278
Meeting ID: 997 0652 8278
Phone: +1 312 626 6799 US (Chicago)
You can also watch the meeting: http://www.berkleymich.org/livestream/zba_livestream.php
THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:00 PM, MONDAY, AUGUST 10, 2021 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/cityofberkley.

PRESENT:

- Erick McDonald
- Kevin Wilner
- Sue McAlpine
- Miles Uhlar
- Maria Ward
- Mark Riley (Alternate)
- Joseph V. Krug

ABSENT:

- Ryan J. Gesund

ALSO PRESENT:

- Scott Merian, 3497 Tyler
- James Terbrueggen, Grand Blanc, MI
- Janice Zalay, 3675 Royal Ave., Berkley
- Erin Schlutow, Community Development Director
- Dennis Hennen, City Council Liaison

* * * * * * * * *

APPROVAL OF AGENDA

It was moved by Ms. McAlpine to approve the agenda. Motion supported by Mr. Krug.

AYES: McAlpine, Uhlar, Ward, Wilner, MacDonald, Krug, Riley, Evans
NAYS: None
ABSENT: Gesund

MOTION CARRIED

* * * * * * * * *

APPROVAL OF MINUTES

It was moved by Mr. Uhlar to approve the minutes of July 12, 2021, as presented. Motion supported by Ms. Ward. Mr. Krug was absent from that meeting, but we had advance notice of that.

Mr. Uhlar proposed an amendment with the respect to the comment that Mr. Evans specified that he was withdrawing and resigning in light of City Council’s decision to not defend the Zoning Board of Appeals decision.

It was moved by Mr. Uhlar to approve the minutes of July 12, 2021, as amended. Motion supported by Ms. Ward.

AYES: McAlpine, Uhlar, Ward, Allen, Evans, MacDonald, Riley, Wilner, Krug
NAYS: None
ABSENT: Gesund

**EXCUSE ABSENCE OF MR. GESUND**

Mr. Gesund supplied advanced notice that he will not be able to attend tonight’s meeting. So, will need to officially excuse him from this evening.

It was moved by Ms. Ward to approve to excuse Mr. Gesund from August 10, 2021 ZBA meeting. Motion supported by Mr. Uhlar.

AYES: McAlpine, Uhlar, Ward, Allen, Evans, McDonald, Riley, Wilner, Krug
NAYS: None
ABSENT: Gesund

**MOTION CARRIED**

* * * * * * * * *

**OLD BUSINESS**

1. **APPLICATION PBA-06-21: 3497 Tyler.** Variance requests to construct a rear addition on a non-conforming dwelling that does not meet the required sideyard setbacks, does not meet the minimum separation distance between dwellings and exceeds lot coverage.

   *Summary Changes: Reducing the request from 41% lot coverage to 37.5%, they shrunk the garage in order to better meet those requirements. Background and scope are present and has not changed. No other specifications changed – just reducing the size of the garage.*

   **Petitioner:**
   Scott Merian
   3497 Tyler
   Berkley, MI 48072

   Mr. Merian stated that he hoped that with the proposed reduction that the Board would consider approving the petition.

   The applicant was asked if they could reduce the lot coverage 37.5% to 35%. Mr. Merian replied that a reduction to 35% will not suit their needs as a family.

   The Board discussed whether a variance exceeding the 35% coverage had been approved previously. Community Development Director Schlutow said each case is treated separately, due to each circumstance. There had been no communication from any neighbors in regard to this case of any issues.

   The Board asked when was the 35% lot coverage was adopted? Community Development Director Schlutow said during her tenure the lot coverage had been 35% and seems to be the historical standard.

   The Board discussed whether the proposed was the minimum possible and if petitioner could reduce the garage to smaller size. The applicant stated that if he can maintain the integrity of the
house, he can make changes to the garage but would like to park his car in it at some point. The applicant indicated that a reduction of the house addition would not be suitable for his family.

1st Variance Request – Variance requests to construct a rear addition on a non-conforming dwelling that does not meet the required sideyard setbacks

Motion by Ms. Ward - move to adopt the request for a variance to construct a rear addition that does not meet the required side yard setback located at 3497 Tyler, Parcel #25-07-451-034, zoned single-family residential – to be approved due to the following findings of fact that the five standards of review have been met.

1) The need for the variance is due to the 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 applicant as well as other property owners.

5) The requested variance will not adversely impact the surrounding properties.

Motion supported by Mr. Krug

AYES: Uhlar, Ward, Wilner, Krug, McDonald, Riley, McAlpine
NAYS: None
ABSENT: Gesund

2nd Variance Request – Construct an addition on a non-conforming structure that encroaches into the minimum 15 feet separation distance.

Motion by Mr. Uhlar, motion to approve. Supported by Ms. Ward.

AYES: Uhlar, Ward, Wilner, Krug, McDonald, Riley, McAlpine
NAYS: None
ABSENT: Gesund

3rd Variance Request – Construct an addition on a non-conforming structure that does not meet the required side yard setback.

Mr. Merian withdrew his request for this variance.
NEW BUSINESS

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

Ms. Ward recommends postponing the election due to new members and one member absent until all Members are present to vote. A motion was made to postpone the elections until the next meeting.

Motion by Ms. Ward. Motion supported by Mr. Krug.

AYES: Uhlar, Ward, Wilner, Krug, McDonald, Riley, McAlpine
NAYS: None
ABSENT: Gesund

OTHER BUSINESS

None

STAFF / BOARD MEMBER REPORT

Community Development Director Schlutow

Master Plan has been drafted and it out for the required 63-day public comment period. Available on our website and will be there until Sept. 23, 2021.

LIAISON REPORT

None

PUBLIC COMMENTS

Janice Zalay
3675 Royal Ave.
Berkley

I am here today as a resident of Berkley, and my property has been a certified national wildlife backyard habitat since 2004. It is my understanding that the last 9 months the Berkley Building Department approved a lot split and new building construction plans for properties at 3679 Royal (which is currently vacant lot and undeveloped site) and 3689 Royal, which is an approved site. These properties are adjacent to my property to the north and the property 3679 is immediately adjacent to my property. Property 3689 Royal abuts the property of 3679 to the north. I am here to introduce myself and present to the ZBA my formal protest, that I have also filed with the City Council. I am filing a formal protest to the lot split and the proposed new building construction plans for 3679 and 3689 Royal Ave., which were unilaterally approved by the City’s Building Inspector because the lot split and the new building construction are clearly not in conformity with Berkley’s Schedule of Regulations and notes to regulations of zoning districts R1D and should have been submitted to the ZBA for a variance request, input from affected neighbors, and after input a decision - approval/disapproved should have been made by ZBA. All requirements from MI Land Division Act. Please review and consider my protest.

** All materials received earlier that day by ZBA Council and Community Development Director Schlutow. City staff will be following up with resident. Community Development Director Schlutow to report back to Council at the next meeting.

Ms. Ward made a statement about the resignations of Chairman Evans and Mr. Allen.

* * * * * * * * *

With no further business, the meeting was adjourned at 8:03 pm.
MEMORANDUM

To: Berkley Zoning Board of Appeals

From: Megan Masson-Minock, Interim Community Development Director

Subject: ZBA Election of Officers

Date: December 9, 2021

The City of Berkley Zoning Board of Appeals Rules of Procedure states the election of Chair and Vice-Chair to the ZBA is to be done annually at the January or February meeting. The duties of elected officers are detailed in Section Four of the Rules of Procedure and are provided below, as follows:

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.

As Chair Evans resigned from the Zoning Board of Appeals, it is necessary to elect a Chair and Vice Chair. Currently, Sue McAlpine serves as the Vice Chair.

Thank you.
ZONING BOARD OF APPEALS APPLICATION

The Zoning Board of Appeals (ZBA) meets the second Monday of the month. The meetings are held in the Council Chambers at City Hall, 3338 Coolidge Highway, Berkley, Michigan 48072.

The ZBA shall hear requests for use and dimensional variances, appeals of administrative decisions, interpretation of zoning map and text, and interpretations of commercial message for proposed murals.

**Please be advised:** The ZBA may grant a variance where undue hardship or practical difficulty for the property exist. A want or desire (bigger structure, more profit, etc.) is not sufficient grounds for a variance. The ZBA does not have the power to legislate or create new regulations. The Board's purpose is to provide some relief from the Zoning Ordinance depending on the unique circumstances of the property.

APPLICANT INFORMATION

Name: Andrew Ball
Phone: [Redacted]
Address: 1069 Eaton Rd
Email: [Redacted]
Relationship to Property (current tenant, representative, future tenant, current owner, future owner):

Current Owner

PROPERTY OWNER INFORMATION (if different from Applicant)

Name: 
Phone: 
Address: 
Email: 

PROPERTY DESCRIPTION

Address: 1069 Eaton Rd
Parcel #: 04-25-17-431-003 Zoning Classification: R1D
Current Use of Property: Single Family Residential
2. Explain how the need for the variance is due to unique circumstances or physical conditions of the property.

The house is unsuitable for a single family. It is divided into two separate residences. It has two entrances, two furnaces, two water heaters, two driveways, two electrical panels, etc... Electricity and gas are also metered separately.

3. Explain how the proposed use will not alter the essential character of the neighborhood.

It will not alter the neighborhood as it has always been a multi-family that only lost its non-conforming status 6 months ago.

4. Explain how the need for the variance is not the result of actions of the property owner or previous property owners.

It is not a result of action, but is a result of inaction on my part. I simply did not renew the rental license this year when fiance and kids moved in.

B. Dimensional Variance (Non-Use Variance)
The Zoning Board of Appeals may grant a dimensional variance (i.e. height, setback, lot coverage, etc) upon finding that undue hardship or practical difficulty exists.

1. Explain how the need for the variance is due to unique circumstances of physical conditions of the property.
II. INTERPRETATION OF ZONING ORDINANCE

Provide Section numbers of Zoning Ordinance to be interpreted: ____________________________

Please describe the request and what needs to be clarified or interpreted by the ZBA.

III. ADMINISTRATIVE REVIEW / APPEAL OF DECISION

Describe the circumstances of each case and provide the minutes of the public meeting noting the denial to be appealed.
PROPERTY OWNER'S APPROVAL (Initial each line)

AB I hereby authorize and give permission for the City of Berkley to install one or more temporary signs on my property, in order to notify the public of the required public hearing related to the above request(s) before the ZBA.

AB I hereby authorize the employees and representatives of the City of Berkley to enter upon and conduct an inspection and investigation of the above referenced property in relation to the above request.

________________________

APPLICANT'S ENDORSEMENT: (Initial each line)

AB All information contained herein is true and accurate to the best of my knowledge.

AB I acknowledge that the ZBA will not review my request unless all information in the application has been submitted to the satisfaction of the Community Development Director.

AB I acknowledge that the City and its employees shall not be held liable for any claims that may arise as a result of acceptance, processing or review of this application.

If an application is withdrawn more than three (3) weeks prior to the meeting date, 90% of the fee will be refunded. If the application is withdrawn less than three (3) weeks prior to the meeting, no refund will be given.

________________________  __________________________  11/10/21
Andrew Ball            Andrew Ball              Date
Applicant Name (print)  Applicant Signature  Date

________________________  __________________________
Applicant Name (print)  Applicant Signature

________________________  __________________________  11/10/21
Andrew Ball            Andrew Ball
Property Owner Name (print)  Property Owner Signature  Date
STATE OF MICHIGAN,
COUNTY OF OAKLAND

The undersigned, being duly sworn, he/she is the principal clerk of Royal Oak Tribune, Oakland Press, theoaklandpress.com, published in the English language for the dissemination of local or transmitted news and intelligence of a general character, which are duly qualified newspapers, and the annexed hereto is a copy of certain order, notice, publication or advertisement of:

CITY OF BERKLEY
Published in the following edition(s):
Oakland Press  11/18/21
theoaklandpress.com  11/18/21
Royal Oak Tribune  11/18/21

VICKI ARSENAULT
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF OAKLAND
My Commission Expires May 11, 2028
Acting in the County of ______________

Sworn to the subscribed before me this 22 Nov. 2021.

________________________
Notary Public, State of Michigan
Acting In Oakland County

Advertisement Information
Client Id:  528440  Ad Id:  2252621  PO:  

Sales Person:  200308
THE CITY OF BERKLEY
Building Department
3338 Coolidge, Berkley, Michigan 48072
(248) 659-3320

PUBLIC HEARING NOTICE
MEETING OF THE BERKLEY
ZONING BOARD OF APPEALS

Notice is hereby given, that there will be a meeting of the
Zoning Board of Appeals to be held at the City of Berkley In
the Council Chambers, 3338 Coolidge, Berkley, Michigan on
Monday, December 13, 2021 at 7:00 p.m. or as near thereto
as the matter may be reached.

Application Number PRA-09-21
Andrew Ball is requesting a use variance at 1069 Eaton Rd,
Parcel # 04-25-17-431-005, to continue a non-conforming
use of the property in the Single-Family Residential District
that is no longer in compliance with the Zoning Ordinance.
The structure had previously been used as a duplex and
registered as a duplex but lost the legal non-conforming
status. The owner is requesting the use variance in order
to continue to use the property and structure as a duplex.

Berkley City Code
1. Berkley City Code, Chapter 138 Zoning, Article III Gen-
eral Provisions, Division 5 Nonconforming Buildings and
Uses, Sec.138-153. Requirements for nonconforming uses
requires that once a nonconforming use has stopped and
the building that houses the nonconforming use remains
vacant for 180 days, any subsequent use of the property
shall be conforming.

Comments on the above variance request may be made in
person on the night of the meeting or in writing. All writ-
ten comments must be in the hands of the Berkley Build-
ing Department before 6:00 p.m. on the date of the Public
Hearing.

COMMUNITY DEVELOPMENT

ERIN SCHLUTOW

Publish Once:
Royal Oak Tribune
Thursday, November 18, 2021
MEMORANDUM

To: Berkley Zoning Board of Appeals

From: Megan A. Masson-Minock, Interim Community Development Director

Subject: ZBA Meeting Dates – 2022 Calendar Year

Date: December 9, 2021

The Berkley Zoning Board of Appeals is scheduled to meet on the second Monday of the month. The following schedule for the 2022 Zoning Board of Appeals meetings is submitted for your consideration.

Tuesday, January 11, 2022 (Delayed for City Council)

Monday, February 14, 2022

Monday, March 14, 2022

Monday, April 11, 2022

Monday, May 9, 2022

Monday, June 13, 2022

Monday, July 11, 2022

Tuesday, August 9, 2022 (Delayed for City Council)

Monday, September 12, 2022

Monday, October 10, 2022

Monday, November 14, 2022

Monday, December 12, 2022

We ask the ZBA motion to approve the proposed 2022 calendar, as presented.