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

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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

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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, McDonald, 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

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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.

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**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

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**OTHER BUSINESS**
None

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**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.

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**LIAISON REPORT**
None

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**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.

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