

CITY OF BERKELEY LAKE
4040 SOUTH BERKELEY LAKE ROAD, BERKELEY LAKE, 30096
PLANNING & ZONING COMMISSION MEETING
FULL MINUTES
November 9, 2010
7:30 PM

Those in attendance at the meeting were as follows:

Commission Members: Rodney Hammond, Chair
 Jeff Cooper
 Sally Rich-Kolb

Deputy City Administrator: Leigh Threadgill

Citizens Present: 0

I. CALL TO ORDER:

Hammond called the meeting to order at 7:33 P.M. at 4040 South Berkeley Lake Road.

II. MINUTES of September 14, 2010

Cooper made a motion to approve the minutes as submitted. The motion failed for lack of a second.

There was discussion that Kolb couldn't vote on the September minutes because she hadn't attended that meeting, and since only two other members were present, approval of the minutes should occur at the next meeting.

Cooper made a motion to postpone consideration of the minutes as submitted until the next meeting. Kolb seconded the motion. All were in favor. The motion passed.

III. APPROVAL OF AGENDA

Cooper made a motion to approve the agenda. Kolb seconded the motion. All were in favor. The motion passed.

IV. OLD BUSINESS

a.) Bylaws – amendment related to voting

Threadgill stated that she had been tasked at the September meeting with determining whether the affirmative vote of a majority of the quorum would be sufficient to approve a business item. She noted that she consulted the City Attorney who advised that a unanimous vote would be required when only

three voting members were present, and that the majority of the quorum when only three members were voting would not be sufficient.

Cooper stated that he still was not comfortable with the proposed change. Unless all five members are present, the vote would have to be unanimous. He noted that it seems like it is not very often that all five Commissioners are present.

Hammond noted that this change sets a high bar for passing planning and zoning items when the full Commission is not present, and that is as it should be.

There was discussion about the importance of attendance at every meeting.

Cooper made a motion to approve the proposed by-laws change. Kolb seconded the motion. All were in favor. The motion passed.

V. NEW BUSINESS

a.) Amendment to Chapter 78, Zoning Ordinance, regarding non-conforming structures and expansions

Hammond noted that this relates to certain peculiarities in the code and the effect of those on the older parts of the city.

Threadgill explained that variance criteria for non-conforming expansions had been added to the code in the last four years. One of those criteria is that the expansion must conform to all requirements of the zoning ordinance.

After reviewing other jurisdictions, Threadgill prepared a draft amendment that will allow the Commission to consider a variance request even if the expansion does not conform to all requirements of the zoning ordinance subject to demonstration of a hardship based on the traditional variance criteria. If the expansion does conform to all requirements of the zoning ordinance, an administrative variance may be granted without the need for application to the full board.

The proposed change also clarifies the rules associated with non-conforming structures and differentiating non-conforming structures from non-conforming uses.

Kolb asked about the requirements for rebuilding when a non-conforming structure is damaged. Threadgill explained that the percentage of destruction/damage that triggers having to bring the structure into compliance varies across jurisdictions, but that most every jurisdiction does have some language that requires a structure to come into compliance when rebuilt after some threshold of destruction. The proposed amendment hasn't changed the percentage thresholds for the city.

Threadgill also noted that she had made changes to the administrative variance language that required the chair to only grant a variance administratively when he found that it would be granted if heard by the full board. Alternate language has been proposed that requires the chair to find that the intent of the ordinance is met and equal performance obtained.

Hammond noted that the Commission is free to vote on this tonight, but there is an option to accept this as information and then hold a public hearing at the next meeting or some subsequent meeting.

Cooper made a motion to accept the proposed changes as submitted. Kolb seconded the motion. All were in favor. The motion passed.

b.) Administrative Variance, 353 Lakeshore Drive, to expand a non-conforming structure

Hammond noted that he had granted this at the request of the property owner, who had been before the Commission in August to receive a variance to expand a non-conforming structure. In August, the Commission had voted on the information submitted, but when the owner came in and submitted the building permit application and site plan, it was not consistent with the variance that had been granted. The additional area proposed for construction met the requirements for granting an administrative variance.

Kolb asked why the information wasn't presented with the original variance application. Threadgill explained that the site plan that was submitted and approved did not include a small unenclosed deck portion that she understood was accidentally omitted from the site plan.

There was discussion about the importance of follow-up site visits to ensure that variances that have been granted have been built according to the plan approved at the variance hearing.

VII. CITIZEN COMMENTS

There were none.

VIII. ADJOURNMENT

Cooper moved to adjourn the meeting. Kolb seconded the motion. All were in favor, and the motion passed.

Hammond adjourned the meeting at 8:01 p.m.

Respectfully submitted,

Leigh Threadgill
Deputy City Administrator