

## SYNOPSIS

### THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:00 PM, MONDAY, June 08, 2026 BY CHAIR WEHBY

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*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: <http://www.youtube.com/CityofBerkley>.*

**PRESENT:** Sue Wehby  
Jason Benedict  
Lorene Branch  
Joseph Krug

Joann Serr  
Kevin Wilner

**ABSENT:** Erick McDonald

**ALSO, PRESENT:** Kim Anderson, Zoning Administrator  
Greg Patterson, Liaison

### CONFIRMATION OF QUORUM MET

### APPROVAL OF AGENDA

Motion to approve the agenda as presented by Krug and supported by Serr.

Voice vote to approve the agenda.

**AYES:** 6  
**NAYS:** 0  
**ABSENT:** 1

### MOTION CARRIED

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### APPROVAL OF MINUTES

Motion to approve the minutes of the March 09, 2026 regular meeting by Serr and supported by Wilner.

Voice vote to approve minutes

**AYES:** 6  
**RECUSE:** 0  
**NAYS:** 0  
**ASBENT:** 1

### MOTION CARRIED

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## **OLD BUSINESS**

None

## **NEW BUSINESS**

### **1. Application Number PBA-03-26**

Jeffrey E. Peterson & Sarah A. Peterson, 1812 Catalpa Dr, Parcel # 04-25-17-181-039, North side of Catalpa Dr., between Henley Ave. and Mortenson Blvd., is requesting a dimensional variance on the exterior side yard setback to construct an addition.

The applicant is requesting a dimensional variance for approximately .562 (6 ¾") on the East side yard setback to allow the construction of a rear two story addition to a non-conforming structure in the required minimum yard setback for exterior side yards on corner lots. The proposed East side setback is 9.438' (9' 5.25") to 9.833' (9' 10") where 10' is required. Per Chapter 138 *Zoning*, Sec. 5.09.E.1 Supplemental Dimensional Regulations Applicable to all Use Based Districts: Minimum Yard setback. Exterior side yards on corner lots: When a rear yard abuts a rear yard, the exterior side yard setback shall not be less than ten feet.

*Berkley City Code*, Chapter 138 *Zoning*, Article 16 Nonconforming Lots, Uses and Structures, Section 16.04.B Requirements for Nonconforming Structures A building may be added to or enlarged if such addition conforms to the regulations of the applicable zoning district. Such addition or enlargement must be treated as a separate building in determining conformity to all the requirements of this Chapter. Per Article 5 Use-Based Districts, Section 5.09 Supplemental Dimensional Regulations Applicable to all Used Based Districts, 5.09.E.1 Exterior side yards on corner lots: When a rear yard abuts a rear yard, the exterior side yard setback shall not be less than ten feet.

Zoning Administrator, Kim Anderson provided the Zoning Board of Appeals background on 1812 Catalpa Dr. built in 1947 and was constructed with the East side yard setback at 8.8' to 9.438' and is nonconforming to current minimum exterior side yard setback requirement of 10'.

Chair Wehby reviewed the five standards to be met.

## **APPLICANT PRESENTATION**

Jeffrey Peterson presented the case to the Zoning Board of Appeals and answered various questions regarding the operation of the business, and parking.

**Chair Wehby opened the floor for the public hearing at 7:07 p.m.**

## **PUBLIC COMMENT**

Correspondence:

Four Public Comments in the form of a letter or email were read at the meeting.

In Person: None

**Chair Wehby closed the floor for the public hearing at 7:11 p.m.**

## **Zoning Board of Appeals discussion:**

Zoning Board of Appeals members discussed; the five standards to be met.

**Motion to approve a non-use dimensional variance for approximately .562 (6 ¾") on the East side yard setback to allow the construction of a rear two story addition by Wilner and supported by Serr.**

**Approval**

*In the matter of PBA-03-26, 1812 Catalpa Dr., parcel 04-25-17-181-039, motion to approve the requested variance from Berkley City Code, Zoning Ordinance, Chapter 138, Article 5, Sec.5.09.E.1 to grant a variance of approximately .562' feet at the East exterior side yard, where a minimum 10 feet side yard setback is required, that does not conform to applicable Zoning Ordinance Berkey City Codes based on the following findings:*

- 1. The need for the variance is due to 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 application as well as other property owners.*
- 5. The requested variance will not adversely impact the surrounding properties.*

**AYES:** Members: Wilner, Benedict, Branch, Krug, Serr, and Chair Wehby

**NAYS:** None

**ABSENT:** McDonald

**MOTION CARRIED**

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**2. Application Number PBA-04-26**

Alexander Paul Murrell, 3489 Catalpa Dr, Parcel # 04-25-18-329-001, South side of Catalpa Dr., between Royal Ave., and Buckingham Ave., is requesting an interpretation of the Zoning Ordinance Section 5.09.E.2.i

The applicant is requesting an interpretation of the Zoning Ordinance Section 5.09.E.2.i to determine if the exterior side yard setback for an accessory structure is to be 25' or 10' when the structure is not 35' from the rear lot line when it is a corner lot and the rear yard abuts a side yard.

*Berkley City Code, Chapter 138 Zoning, Article 5 Use-Based Districts, Section 5.09.E.2.i* When a rear yard abuts a side yard, the exterior side yard setback is twenty-five feet, with the following exception: i. When the distance from the rear lot line to the principal structure is greater than thirty-five feet, the minimum setback is reduced to ten feet.

Zoning Administrator, Kim Anderson provided the Zoning Board of Appeals the history on 3489 Catalpa Dr built in 1950. The applicant applied for a Building Permit to install a new garage slab. Upon my review, the Building Permit Application was denied based on the Zoning Ordinance known established patterns maintained for corner lots.

Zoning Administrator, Kim Anderson provided the Zoning Board of Appeals the history on the intent of the ordinance dating back to 1967 and provided in the packets along with the history of the ordinance were

detailed examples on existing non-conforming properties, variances and a map outlining the area where a corner lot has a rear yard to a side yard showing the uniqueness.

Per Section 138-17.04.D of the Zoning Ordinance, the Zoning Board of Appeals must hear and decide requests for interpretation of the Zoning Ordinance or the Zoning Map, taking into consideration the intent and purpose of the Zoning Ordinance and the Master Plan.

A record must be kept by the Zoning Administrator of all decisions for interpretation of the Zoning Ordinance or Zoning Map.

The Zoning Board of Appeals may request the Planning Commission to initiate an ordinance amendment that would correct or clarify the Ordinance.

The Board is asked to provide an interpretation as to whether the intent in Section 5.09.E.2.i “When a rear yard abuts a side yard, the exterior side yard setback is twenty-five feet, with the following exception: i. When the distance from the rear lot line to the principal structure is greater than thirty-five feet, the minimum setback is reduced to ten feet.” is to include accessory structures.

Board members requested clarification on the setbacks.

### **APPLICANT PRESENTATION**

The applicant Alexander Paul Murrell for 3489 catalpa Dr. presented the case to the Zoning Board of Appeals with a presentation.

**Chair Wehby opened the floor for the public hearing at 7:28 p.m.**

### **PUBLIC COMMENT**

Correspondence:

Six Public Comments in the form of a letter or email were read at the meeting.

In Person: None

**Chair Wehby closed the floor for the public hearing at 7:33 p.m.**

### **Zoning Board of Appeals discussion:**

Zoning Board of Appeals members discussed the previous ordinance verbiage versus the new ordinance verbiage and the possible intent for accessory structures when the verbiage has “Principal” yet accessory structure is not specified.

- 1. Motion to request the Planning Commission further investigate and help determine how specifically the ordinance should be written by Wilner and supported by Serr.**

**AYES:** Members: Branch, Krug, Serr, Wilner and Chair Wehby

**NAYS:** Benedict

**ABSENT:** McDonald

**MOTION CARRIED**

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**OTHER BUSINESS**

None

**STAFF/BOARD MEMBER REPORT**

Community Development Monthly Report for February 2026 and March 2026.  
The are two Alternate positions for the Zoning Board of Appeals open. Spread the word.  
There is one case for the ZBA July 13, 2026

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**LIAISON REPORT**

Greg Patterson:

- Volunteer Appreciation Dinner for all volunteers June 29, 2026 at 530 at Community Center - RSVP
- Bacon Ave. and Water Main construction has started.

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**Chair Wehby opened the floor for public comment at 7:43 p.m.**

**PUBLIC COMMENT**

Alex Murrell, 3489 Catalpa Dr.:  
Commented that the amendment October last year to 9.09.A.5.d For corner lots to see 5.09E and 5.09F Supplemental Dimensional Regulations Applicable to All Use Based Districts. That even though it does not specify accessory structures it is referenced.

Signs placed on lawns has the incorrect website address. Zoning Administrator, Anderson thanked Mr. Murrell for bring this to our attention and will check into this inaccuracy and be sure that it is corrected.

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**Chair Wehby closed the floor for public comment at 7:45**

**With no further business, the meeting was adjourned at 7:45 p.m.**

Motion by Krug and support by Wilner

Voice vote to adjourn

**AYES: 6  
NAYS: 0  
ABSENT: 1**

**MOTION CARRIED**

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