

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES – WEDNESDAY, DECEMBER 8, 2021

REMOTE MEETING VIA ZOOM

PRESENT: President Darryl Honda, Commissioner Ann Lazarus, Commissioner Tina Chang and Commissioner Jose Lopez.

Brad Russi, Deputy City Attorney, Office of the City Attorney (CAT); Corey Teague, Zoning Administrator, Planning Department (PD); Tina Tam, Deputy Zoning Administrator, PD; Neville Pereira, Deputy Director of Permit Services, Department of Building Inspection (DBI); Matthew Greene, Senior Building Inspector, DBI; Chris Buck, Urban Forester, San Francisco Public Works, Bureau of Urban Forestry (SFPW-BUF); Julie Rosenberg, Executive Director; Alec Longaway, Legal Assistant.

ABSENT: Vice President Rick Swig.

(1) PUBLIC COMMENT

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. At the discretion of the Board President, public comment may be limited to two minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

PUBLIC COMMENT: None.

(2) COMMISSIONER COMMENTS & QUESTIONS

SPEAKERS: President Honda welcomed Senior Inspector Matthew Greene and Deputy Zoning Administrator Tina Tam to the Board of Appeals.

PUBLIC COMMENT: None.

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the December 1, 2021 minutes.

ACTION: Upon motion by Commissioner Lazarus, the Board voted 4-0-1 (Vice President Swig absent) to adopt the December 1, 2021 minutes.

PUBLIC COMMENT: None.

(4) REHEARING REQUEST FOR APPEAL NO. 21-084

Subject property at 100 Larkin Street (Grove & Hyde Street frontages). Kasey Asberry, Appellant, is requesting a rehearing of Appeal No. 21-084, KASEY ASBERRY vs. SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY decided November 10, 2021. At that time, upon motion by Vice President Swig, the Board voted 4-0-1 (Commissioner Lazarus absent) to grant the appeal and issue the order on the condition it be revised to require:

(1) The removal of the eight trees identified below which pose a hazard. The replacement shall be one to one within six months of removal with the expectation that BUF will honor its agreement that two to one replacement shall be completed within one year of removal pending available funding:

a. 30 Grove Street Removal

- i. Tree 2 (127638) Remove
- ii. Tree 3 (127639) Remove
- iii. Tree 4 (127640) Remove (Note: The Tree has already been removed due to failure on 5/29/21)
- iv. Tree 10 (127646) Remove

b. 11 Hyde Street Removal

- i. Tree 3 (127630) Remove
- ii. Tree 4 (127631) Remove
- iii. Tree 5 (127632) Remove
- iv. Tree 9 (127636) Remove (Note: Tree has already been removed as emergency on 6/10/21).

(2) The pruning of the eleven trees identified below:

a. 30 Grove Street Pruning

- i. Tree 1 (127637) Prune
- ii. Tree 5 (127641) Prune
- iii. Tree 6 (127642) Prune
- iv. Tree 7 (127643) Prune
- v. Tree 8 (127644) Prune
- vi. Tree 9 (127645) Prune

b. 11 Hyde Street Pruning

- i. Tree 1 (127628) Prune (tree removed on emergency basis on 9/7/21)
- ii. Tree 2 (127629) Prune
- iii. Tree 6 (127633) Prune
- iv. Tree 7 (127634) Prune
- v. Tree 8 (127635) Prune

(3) If any other trees need to be removed in the future, BUF will again initiate the removal notification process and post notices as outlined in their tree removal permit process and

the Board would strongly recommend that any tree removed in the future be replaced on a two to one ratio.

This motion was made for the protection and safety of the citizens of San Francisco.

Determination Holder: BUF. Determination Description: Approval for the Bureau of Urban Forestry to remove 17 Ficus street trees with replacement; each of these trees falls within at least one of the conditions warranting removal set forth in Order # 183151: Tree Removal Criteria for Ficus Trees; additionally, great weight is given to the tree failure which occurred May 29, 2021 and the posting of another tree for emergency removal as evidence of a public safety risk. **Order No. 205288.**

ACTION: Upon motion by Commissioner Lazarus, the Board voted 4-0-1 (Vice President Swig absent) to deny the request on the basis that there was neither new information nor manifest injustice.

SPEAKERS: Kasey Asberry, requestor; Chris Buck, SFPW-BUF.

PUBLIC COMMENT: Betty Traynor, Lance Carnes, Guled, Kindra Scharich, Chriselle Raguro, Joshua Klipp, John Nulty and Jeffrey Johnson spoke in support of the requestor.

(5) APPEAL NO. 21-096

<p>PHILIP FATHER, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent</p>	<p>1527 McAllister Street. Appealing the ISSUANCE on September 22, 2021, to Sherrie Matza, of an Alteration Permit (addition of wood deck in rear yard to cover excavated area from previous abandoned permit to address NOV # 202178287). PERMIT NO. 2021/0827/7316. FOR FURTHER CONSIDERATION. Note: On November 17, 2021, upon motion by President Honda, the Board voted 4-0-1 (Vice President Swig absent) to continue this Item to December 8, 2021 so that the permit holder: (1) can decide to either infill the space or to retain it with the proper structural measures, and (2) can provide the Board with revised plans reflecting the chosen course of action.</p>
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ACTION: Upon motion by Commissioner Lazarus, the Board voted 4-0-1 (Vice President Swig absent) to grant the appeal and issue the permit on the condition it be revised to require:

1. The adoption of the revised plans dated November 24, 2021, which were submitted for the hearing, provided that they are further revised to incorporate the following suggestions made by DBI:
 - a. The site plan and survey must be representative of current conditions as the vertical cuts are much closer to the property lines than depicted on the plans.
 - b. The removal of the reference to structural details of the concrete walls and foundation details that are not relevant to the concrete slabs-on-grade that are being proposed.
 - c. The plans must show the dimension of the height of the remaining vertical cuts and the removal of the existing shotcrete to 24 inches below the finished surface of the

gravel. The shotcrete was never permitted and DBI will allow the shotcrete to remain sub-surface to accommodate the applicant if costs are an issue.

- d. The finished grade should be restored as close to existing grade as possible since the purpose of the gravel backfill is to remediate the existing illegal grading. Vertical cuts less than four feet would be deemed acceptable as long as they do not undercut the adjacent property.

This motion was made on the basis that these changes resolve the issues around the property.

SPEAKERS: Diarmuid MacNeill, agent for permit holder; Matthew Greene, DBI; Neville Pereira, DBI; Philip Father, appellant.

PUBLIC COMMENT: None.

(6) APPEAL NO. 21-094

<p>LEANA PEREZ and FRANCISCO ARMAS, Appellant(s)</p> <p style="text-align: center;">vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>3421-3423-3425 20th Street. Appealing the ISSUANCE on September 3, 2021, to Biana Chernoguz 1997 Revocable Trust, of an Alteration Permit (Units 3421, 3423, 3425: Relocate kitchen and convert pantry into bathroom and kitchen into bedroom on all three units; window replacement on 2nd, 3rd, and 4th floors in kind; front windows replacement in kind with wood Ogee and True dividers). PERMIT NO. 2021/03/31/7623. FOR FURTHER CONSIDERATION. Note: On November 10, 2021, upon motion by Vice President Swig, the Board voted 4-0-1 (Commissioner Lazarus absent) to continue this Item to December 8, 2021 so that the permit holder can submit revised plans that: (1) make the unit more desirable and livable, and (2) address the outstanding issues identified in the NOVs on the property.</p>
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ACTION: Upon motion by Commissioner Lazarus, the Board voted 4-0-1 (Vice President Swig absent) to grant the appeal and issue the permit on the condition that it be revised to require the adoption of the revised plans dated December 6, 2021, which were submitted for the hearing, on the basis that these plans meet the needs of the tenants and are code compliant.

SPEAKERS: Ronald Yu, agent for permit holder; Tina Tam, PD; Matthew Greene, DBI; Tom Drohan, attorney for appellants.

PUBLIC COMMENT: None.

(7) APPEAL NO. 21-099

LAN LE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	792 Hayes Street. Appealing the ISSUANCE on October 22, 2021, to Pat Dianda, of an Alteration Permit (replace in kind bottom set of stairs due to dry rot.). PERMIT NO. 2021/09/08/7960. FOR HEARING TODAY.
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ACTION: Upon motion by President Honda, the Board voted 4-0-1 (Vice President Swig absent) to grant the appeal and overturn the permit on the basis that the stairs are located on the appellant's property.

SPEAKERS: Lan Le, appellant; Abraham Zavala, agent for permit holder; Mark Dianda, agent for permit holder; Tina Tam, PD; Matthew Greene, DBI.

PUBLIC COMMENT: None.

(8) APPEAL NO. 21-098

SAN FRANCISCANS FOR SPORTS AND RECREATION, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	88 Bluxome Street. Appealing the ISSUANCE on October 15, 2021, to San Franciscans for Sports and Recreation, of a Letter of Determination (The Zoning Administrator determined that the removal of the SF Tennis Club Tennis Facility component of the Large Project authorized by Planning Commission Motion No. 20493, as proposed in Site Permit Application Nos. 2021/0726/5067, 2021/0726/5087 and 2021/0726/5105, is not a significant modification that requires Planning Commission approval of a new Large Project Authorization. The removal is a change that may be approved administratively by the Zoning Administrator). RECORD NO. 2021-009391ZAD. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Lazarus, the Board voted 4-0-1 (Vice President Swig absent) to grant the appeal and overturn the Letter of Determination, on the basis that the Zoning Administrator erred in his determination; the Zoning Administrator's determination that the proposed removal of the Tennis Center is not a significant modification to the project authorized by the Planning Commission was in error, based on the unique set of facts and circumstances of this particular case including:

1. The prominence of the Tennis Center in the Planning Commission's Motion approving the Large Project Authorization;
2. The prominence of the Tennis Center in the presentation and project proposal that the Planning Commission considered at the meeting when it approved the project; and
3. The size of the proposed change in relation to the overall size of the project.

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SPEAKERS: President Honda (disclosed that he is a partner in a project that is represented by the law firm of Reuben, Junius & Rose and that the firm's appearance before the Board of Appeals would have no effect on his decision); Anthony Giles, attorney for appellant; John Kevlin, attorney for property owner (ARE-San Francisco No. 53, LLC); Corey Teague, PD.

PUBLIC COMMENT: Brad Gilbert, Jacqueline Apple, Miten Bhatia, Andrew Chou-Belden, Tricia Weaver-Moss, Debbie Gersten, Troy Rondeau (USTA), Bart Deamer, Fan Lau, Steve Jamison, Lois Salisbury, Richard Quesada, Nina Brentlinger, Karen Mack, Mike Skinner, William Schwartz, Michael Delgado, Warren, Grace Pon, Darryl Woo, Rohit Dhawan, David Demanes, Abraham F., #whereispengshuai, Lance Johnson, Marc Sondheimer, Bryan Schultz, Mindy Sivasubramanian, Darci Sivasubramanian, Lucia Choi-Dalton and her husband, Laurel Etling, Daniel Ogawa, Bobby Carter, Maggie Thompson, Vanita Louie, Tom Yankowski, Mr. Holbrook, Michael Huang, Diane Eisenberg, Ramin Naeini, Ari Dastidar, Neynep Aynaci, Dr. Vinh Ngo, Shahand Esmaeili, Jana Klein, Mr. Wells, Dan Newmark, Nabie Bertrand, Abe Young and Mana spoke in support of the appellant.

ADJOURNMENT.

There being no further business, President Honda adjourned the meeting at 9:11 p.m.

The supporting documents for this meeting can be found at the following link:

<https://sfgov.org/bdappeal/meeting/board-appeals-december-8-2021-supporting-documents>

A video of this meeting, can be found at the following link:

https://sanfrancisco.granicus.com/player/clip/40048?view_id=6&redirect=true