

# **BOARD OF APPEALS**

## **CITY & COUNTY OF SAN FRANCISCO**

### **MEETING MINUTES - WEDNESDAY, SEPTEMBER 1, 2021**

#### **REMOTE MEETING VIA ZOOM**

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

Jon Givner, Deputy City Attorney, Office of the City Attorney (CAT); Zachary Porianda, Deputy City Attorney (CAT); Jim Emery, Deputy City Attorney (CAT); Scott Sanchez, Deputy Zoning Administrator, Planning Department (PD); Leoncio Palacios, San Francisco Public Works, Bureau of Street Use and Mapping (SFPW-BSM); Philip Cranna, Enforcement and Legal Affairs Manager, Taxi Services, San Francisco Municipal Transportation Agency (SFMTA); Stephen Keller, Acting Urban Forester, San Francisco Public Works, Bureau of Urban Forestry (SFPW-BUF); Julie Rosenberg, Executive Director; Alec Longaway, Legal Assistant.

#### **(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.

SPEAKERS: None.

#### **(2) COMMISSIONER COMMENTS & QUESTIONS**

SPEAKERS: None.

#### **(3) ADOPTION OF MINUTES**

Discussion and possible adoption of the August 18, 2021, minutes.

ACTION: Upon motion by Vice President Swig, the Board voted 5-0 to adopt the August 18, 2021 minutes.

PUBLIC COMMENT: None.

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**(4) APPEAL NO. 21-064**

<p>GEORGE HORBAL, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY, Respondent</p>	<p>Appealing the ISSUANCE, on July 9, 2021, of the Decision on Reconsideration: SFMTA v. George Horbal (REVOCATION of Taxi Medallion No. 1303: George Horbal does not have a current California driver's license and is not eligible to possess an A-Card. Without these licenses, the taxi medallion can be revoked pursuant to the Transportation Code. The Notice of Nonrenewal issued by SFMTA Taxi Services is upheld and the medallion is revoked). MEDALLION NO. 1303. FOR HEARING TODAY.</p>
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**ACTION:** Upon motion by Commissioner Lopez, the Board voted 4-1 (Commissioner Lazarus dissented) to continue this matter to November 17, 2021 to allow time for the department to compile enforcement data for the number of medallions that have been revoked or not renewed because the medallion holder did not have a valid California Driver's License or an A-card relative to other general enforcement activity; the Board further requested that the department, to the best of its ability, provide data back to 1978, but at a minimum, as far back as electronic records allow.

**SPEAKERS:** George Horbal, appellant; Carl Macmurdo, agent for appellant; Jim Emery, attorney for the SFMTA; Philip Cranna, SFMTA.

**PUBLIC COMMENT:** Robert Cesana, Marcelo Fonseca, Charles Rathbone, D. Neyhart, Dennis Korkos, Nathan Dwiri, Mark Gruberg and Dan Hinds spoke in support of the appellant.

**(5) APPEAL NO. 21-065**

<p>345 FULTON I3, LP, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p>	<p>345 Fulton Street.</p> <p>Appealing the DENIAL, on July 14, 2021, of an application for an Exposure Variance (The project proposes the addition of four Accessory Dwelling Units (ADUs) to an existing 28-unit building. One of the ADUs is proposed at the front of the existing building with glazing facing onto the street, one is proposed at the rear of the building with glazing facing onto the rear yard, and two of the proposed ADUs are proposed with glazing facing only an interior light court. Planning Code section 140 requires all dwelling units to face directly onto a qualifying open area. The Zoning Administrator is allowed to grant a waiver for reduced exposure for an ADU if qualifying windows face an open area that is: (1) no less than 225 square feet in size, (2) has no horizontal dimension less than nine feet, and (3) is open to the sky with exception of permitted obstructions outlined in Section 140. Unit #2 and Unit #3 are proposed to face a light court that does not meet the standard requirements of Section 140 nor the reduced requirements available for ADUs, therefore a variance is required. The project does not meet the five findings required by Planning Code section 305(c).</p> <p>CASE NO. 2020-010606VAR. FOR HEARING TODAY.</p>
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**ACTION:** Upon motion by Commissioner Chang, the Board voted 4-1 (Commissioner Lopez dissented) to deny the appeal and uphold the denial of the variance on the basis that the five findings required under Planning Code Section 305(c) have not been met.

**SPEAKERS:** Serina Calhoun, agent for appellant; Scott Sanchez, PD.

**PUBLIC COMMENT:** None.

**(6) APPEAL NO. 21-059**

<p>CATERINA FAKE, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent</p>	<p>635 Steiner Street.</p> <p>Appealing the ISSUANCE, on June 17, 2021, to Caterina Fake, of a Public Works Order (DENIAL of the application to remove three significant trees with replacement adjacent to 635 Steiner Street since the trees are healthy).</p> <p>Order No. 204944. FOR HEARING TODAY.</p>
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**ACTION:** Upon motion by President Honda, the Board voted 5-0 to grant the appeal and issue the order on the condition that it be revised: (1) to allow for the removal of the three trees after the Department of Building Inspection issues a permit for the repair of the retaining wall, and (2) to require the trees be replaced with four, small stature trees that are 24-inch box size with the species to be determined by BUF in consultation with the property owner. This motion was made on the basis that the retaining wall is a public safety hazard.

**SPEAKERS:** Yin Ho, attorney for appellant; Stephen Keller, BUF.

**PUBLIC COMMENT:** None.

**(7) APPEAL NO. 21-066**

<p>LAURA KEMP, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF STREET USE &amp; MAPPING, Respondent</p>	<p>231 Dwight Street. Appealing the ISSUANCE on July 6, 2021, to GTE Mobilnet of California, LP, of a Wireless Box Permit (Installation of a Personal Wireless Service Facility in a Zoning Protected Location). PERMIT NO. 21WR-00051. FOR HEARING TODAY.</p>
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**ACTION:** Upon motion by President Honda, the Board voted 5-0 to continue this matter to November 17, 2021, so that the permit holder can send out proper notice as required by Article 25 of the Public Works Code.

**SPEAKERS:** Laura Kemp, appellant; Melanie Sengupta, attorney for permit holder; Paul Albritton, attorney for permit holder; Fritz Chang, agent for permit holder; Leoncio Palacios, SFPW-BSM; Scott Sanchez, PD.

**PUBLIC COMMENT:** President Honda allowed Laura Kemp to read a written statement from the resident of 231 Dwight St. who had to leave the meeting before this Item was called. This statement was in support of the appellant.

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**(8) APPEAL NO. 21-063**

<p>GTE MOBILNET OF CALIFORNIA LP, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF STREET USE &amp; MAPPING, Respondent</p>	<p>1301 Revere Ave., 2797 Bryant St., 289 Hamilton St., 1500 Silliman St., 300 Madison St., 1900 Union St., 10 Augusta St., 18 Ceres St., 2231 22nd St., San Bruno Ave. between 3rd St/Girard St. to Campbell Ave- East Side.</p> <p>Appealing the DENIAL on June 30, 2021, to GTE Mobilnet of California LP, of Personal Wireless Service Facility Site Permits (Public Works denied these applications for Personal Wireless Service Facility Site Permits for the following reasons: Under Article 25 of the Public Works Code, Public Works may only issue a Personal Wireless Service Facility Site Permit for installation on an existing utility pole, not on a stand-alone pole; these applications are for stand-alone poles).</p> <p>PERMIT NOS. 20WR-00055, 20WR-00057, 20WR-00058, 20WR-00059, 20WR-00060, 21WR-00005, 21WR-00006, 21WR-00007, 21WR-00012, 21WR-00060. FOR HEARING TODAY.</p>
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**ACTION:** Upon motion by Commissioner Lazarus, the Board voted 4-0-1 (President Honda recused) to continue this matter to October 6, 2021, at the request of the parties.

**SPEAKERS:** President Honda disclosed that his wife owns property within 500 feet of one of the properties that is the subject of the appeal, and therefore he recused himself from hearing this Item.

**PUBLIC COMMENT:** None.

**ADJOURNMENT.**

There being no further business, President Honda adjourned the meeting at 10:00 p.m.

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

<https://sfgov.org/bdappeal/meeting/board-appeals-september-1-2021-supporting-documents>

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

[https://sanfrancisco.granicus.com/MediaPlayer.php?view\\_id=6&clip\\_id=39276](https://sanfrancisco.granicus.com/MediaPlayer.php?view_id=6&clip_id=39276)