

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, MAY 19, 2021

REMOTE MEETING VIA ZOOM

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

Brad Russi, Deputy City Attorney, Office of the City Attorney (CAT); Scott Sanchez, Deputy Zoning Administrator, Planning Department (PD); Esmerelda Jardines, Senior Planner (PD); Kate Conner, Principal Planner (PD); Joseph Duffy, Acting Deputy Director, Department of Building Inspection (DBI); Chris Buck, 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: Justin Zucker from Reuben, Junius & Rose spoke on behalf of the property owner of 1686 Market Street. He provided an update on a previous NOV appeal heard by the Board involving smoke and odor emissions from Espetus Steak House [Appeal No. 18-140]. Mr. Zucker stated that to address the NOV, the owner agreed to install a new pollution control unit and that the Board imposed penalties if a certificate of final completion (CFC) was not obtained within 12 weeks of permit issuance. He stated that, unknown at the time of the hearing, additional construction permits were required before obtaining a CFC. The Fire Department required a new fire alarm system and the Zoning Administrator requested the addition of a new sound barrier wall. He noted that that the sound barrier permit had been issued, however, they were still waiting on parts from China that were delayed due to the pandemic. Mr. Zucker stated that the fire alarm permit had not yet been issued. He requested that the Board reconsider its prior decision and that the imposition of penalties not accrue until three weeks after the fire alarm permit has been issued.

Vice President Swig disclosed that he had a conflict with the appeal referenced by Mr. Zucker and that he would have recused himself if he had known that it would be brought up in public comment.

(2) COMMISSIONER COMMENTS & QUESTIONS

SPEAKERS: None.

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the May 5, 2021 minutes.

ACTION: Upon motion by Vice President Swig, the Board voted 3-0-1 (Commissioner Lazarus absent) to adopt the May 5, 2021 minutes.

PUBLIC COMMENT: None.

(4) SPECIAL ITEM:

Senate Bill 35 Projects. Informational Presentation by the San Francisco Planning Department: Review of the Planning Department's implementation approach for Senate Bill 35 for streamlined ministerial review of housing projects. This bill became effective in January 2018, and the presentation will include an overview of the bill, implementation approach, a brief summary of the projects that have been processed using SB-35, as well as a brief overview of Assembly Bill 831.

SPEAKERS: Esmeralda Jardines (PD) and Kate Conner (PD).

PUBLIC COMMENT: Robert Fruchtman asked what percentage of affordable housing units, built since 2018, used the SB 35 process.

(5) APPEAL NO. 21-015

<p>NOEL FRELICOT, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>2472 Vallejo Street. Appealing the ISSUANCE on February 22, 2021, to Evelyn Hu, of an Alteration Permit (kitchen and bath remodel; remove one set of convenience stairs; fully infill small remainder of lightwell by connecting preexisting firewalls). PERMIT NO. 2020/12/30/1935. FOR FURTHER CONSIDERATION. 4/21/21: Upon motion by President Honda, the Board voted 4-0 to continue this matter to May 5, 2021 so that the parties can work together on a solution and address the concerns raised by Acting Deputy Director Duffy and Deputy Zoning Administrator Sanchez. 5/5/21: Upon motion by Commissioner Lazarus, the Board voted 4-0 to continue this item to May 19, 2021 so that the permit holder can finalize the revised plans.</p>
---	---

ACTION: Upon motion by President Honda, the Board voted 3-0-1 (Commissioner Lazarus absent) to grant the appeal and issue the permit on the condition that the revised plans, dated May 19, 2021, are adopted, on the basis that this reflects the agreement of the parties and makes the project Code compliant.

REGULAR MEETING, BOARD OF APPEALS, MAY 19, 2021 - PAGE 3

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); Christina Berglund, attorney for appellant; Tom Tunny, attorney for permit holder; Scott Sanchez, PD; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

(6) JURISDICTION REQUEST NO. JR-21-4

Subject property at 265 Oak Street. Letter from Jane Flurry, requestor, asking that the Board take jurisdiction over Variance No. 2017-012887VAR, which was issued on June 15, 2020. The appeal period ended on June 25, 2020, and the jurisdiction request was filed at the Board office on April 23, 2021. **Determination Holder:** Golden Properties LLC . **Determination Description:** The proposal is to construct a four-story, two-family home at the rear of a through-lot and tenant improvements and reconfiguration of the existing five-unit building fronting Oak Street; the Planning Code requires a rear yard equivalent to 25% of the total lot depth at grade level and at each succeeding story of the required rear yard of 30 feet, the proposed rear yard structure will extend to the rear property line and therefore a rear yard variance is required; the Zoning Administrator granted the rear yard, open space and exposure variance.

ACTION: Upon motion by Vice President Swig, the Board voted 3-0-1 (Commissioner Lazarus absent) to grant the request on the basis that the Planning Department inadvertently caused the requestor to be late in filing an appeal, because it did not notify her of the issuance of the Variance Decision after she made a request to have it sent to her.

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); Jane Flurry, requestor; John Kevlin, attorney for determination holder; Scott Sanchez, PD.

PUBLIC COMMENT: None.

(7) APPEAL NO. 21-026

<p>SALVATORE ROMANO, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent</p>	<p>1234 Lombard Street. Appealing the ISSUANCE on March 26, 2021, to 1234 Lombard HOA, of a Public Works Order (approval to remove one significant tree on private property without replacement; the tree is a clear safety hazard as it threatens structures immediately adjacent to it and numerous utility lines). ORDER NO. 204540. FOR HEARING TODAY.</p>
--	--

ACTION: Upon motion by President Honda, the Board voted 3-0-1 (Commissioner Lazarus absent) to deny the appeal and uphold the order on the basis that the tree creates a health and safety issue for the public and further based on BUF's recommendation to remove it.

SPEAKERS: Karen Donovan, agent for determination holder; Chris Buck, SFPW-BUF. [Appellant did not appear at the hearing].

REGULAR MEETING, BOARD OF APPEALS, MAY 19, 2021 - PAGE 4

PUBLIC COMMENT: None.

(8) APPEAL NO. 21-023

ADRIA ARTESEROS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1748 Keith Street. Appealing the ISSUANCE on March 10, 2021, to Ilya Zhuchkov, of an Alteration Permit (add ADU per Ordinance 162-16; remodel entry; add new door on front facade). PERMIT NO. 2019/10/29/5894. FOR HEARING TODAY.
---	---

ACTION: Upon motion by Vice President Swig, the Board voted 4-0 to deny the appeal and uphold the permit on the basis that it was properly issued.

SPEAKERS: Mark Johnson, agent for appellant; Adria Arteseros, appellant; Michael Martinovsky, attorney for permit holder; Ilya Zhuchkov, permit holder; Scott Sanchez, PD; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

(9) APPEAL NO. 21-024

LARRY and BARBARA DELANEY, PAT LEE, LARRY MAK and JIM PHILLIOU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4326 Irving Street. Appealing the ISSUANCE on March 8, 2021, to IRV LLC, of a Site Permit (vertical addition; add 4th floor; expansion of four existing units on 3rd floor; add new roof deck; change VB construction type to VA; refer to #2018/1116/6157 for approved ADU; add 5 five new dwelling units on ground level in place of existing carport). PERMIT NO. 2019/09/11/1353. FOR HEARING TODAY.
--	---

ACTION: Upon motion by Commissioner Chang, the Board voted 4-0 to deny the appeal and uphold the permit on the basis that it was properly issued.

SPEAKERS: Barbara Delaney, appellant; Jim Philliou, appellant; Larry Delaney, appellant; Brian Veit, agent for permit holder; Scott Sanchez, PD; Joseph Duffy, DBI.

PUBLIC COMMENT: Sylvia Ahern, Eileen Boken, Diana, J Barry Gurdin, Will Kardas, Sophia Lin, Michelle Delaney and Mitzi Baer spoke in support of the appellants. Robert Fruchtmann spoke in support of the permit holder.

(10) **SPECIAL ITEM:**

Consideration and possible adoption of a resolution encouraging the establishment of notice requirements to all tenants of a residential building before and after permits are issued to add Accessory Dwelling Units.

ACTION: Upon motion by President Honda, the Board voted 4-0 to adopt the resolution and forward it to the appropriate departments.

PUBLIC COMMENT: None.

ADJOURNMENT.

There being no further business, President Honda adjourned the meeting at 8:22 p.m.

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

<https://sfgov.org/bdappeal//meeting/board-appeals-may-19-2021-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=38586