

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

DRAFT MEETING MINUTES – WEDNESDAY, APRIL 13, 2022

HYBRID MEETING (IN-PERSON AND REMOTE ACCESS VIA ZOOM)

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

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

Brad Russi, Deputy City Attorney, Office of the City Attorney (CAT); Zachary Porianda, Deputy City Attorney, CAT; Phillip Cranna, Enforcement and Legal Affairs Manager, San Francisco Municipal Transportation Agency, Taxis, Access & Mobility Services (SFMTA); Tina Tam, Deputy Zoning Administrator, Planning Department (PD); Kevin Birmingham, Senior Building Inspector, Department of Building Inspection (DBI); Julie Rosenberg, Executive Director; Alec Longaway, Legal Assistant.

ABSENT: 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.

SPEAKERS: Carl Macmurdo stated that in 2002 the Taxi Commission designated the Full Time Driving Requirement as an Essential Eligibility Requirement (EER) for Prop. K taxi medallion holders. He stated that driving is an important element of the program but not an essential one. He further stated that the Americans with Disabilities Act must protect medallion holders who become disabled. He noted that the 1978 voter pamphlet for Prop. K did not mention any driver duties.

(2) COMMISSIONER COMMENTS & QUESTIONS

ACTION: None.

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the March 30, 2022 minutes.

ACTION: Upon motion by Commissioner Honda, the Board voted 4-0-1 (President Swig absent) to adopt the March 30, 2022 meeting minutes.

PUBLIC COMMENT: None.

(4) JURISDICTION REQUEST NO. 22-3

Subject property at 1685-1687 Haight Street. Letter from Conor Johnston, requestor, asking that the Board take jurisdiction over Notice of Violation (Complaint No. 2021-003092ENF), which was issued on February 9, 2022. The appeal period ended on February 24, 2022, and the jurisdiction request was filed at the Board office on March 16, 2022. **Determination Holder:** Conor Johnston
Determination Description: Planning Department records indicate the subject property is authorized as a Cannabis Retail Sales use (2018-01421CUA). Building Permit Application No. 2019/0627/4632 authorized the removal of the existing exterior front door and frame, painting of the front facade and installation of a new exterior security camera. The violation pertains to additional unpermitted alterations completed at the property without benefit of a building permit or Planning Department review. Specifically, the subject property is deemed to be in violation of the following Planning Code Sections: Section 145.1(c) for lack of compliance with Storefront Transparency requirements; Section 175 for unauthorized exterior alterations, and Section 607.1 for unauthorized installation of a business sign.

ACTION: Upon motion by Vice President Lazarus, the Board voted 2-2-1 (Commissioner Lopez and Commissioner Chang dissented and President Swig absent) to deny the request on the basis that the City did not intentionally or inadvertently cause the requestor to be late in filing an appeal. Lacking the four votes needed to pass the motion failed. With no further motion made, the request was denied by operation of law.

SPEAKERS: Conor Johnston, requestor; Tina Tam, PD

PUBLIC COMMENT: None.

(5) APPEAL NO. 22-007

<p>ROBERT SKRAK, Appellant(s)</p> <p>vs.</p> <p>MUNICIPAL TRANSPORTATION AGENCY, Respondent</p>	<p>Appealing the ISSUANCE on February 1, 2022, to Robert Skrak, of the Statement of Decision: SFMTA v. Robert Skrak (Robert Skrak does not have a current California Driver's License or an A-Card; the Taxi & Accessible Services' Notice of Nonrenewal is upheld, and Medallion No. 878 is revoked by the explicit operation of the provisions of the San Francisco Transportation Code).</p> <p>Medallion No. 878. FOR HEARING TODAY.</p>
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ACTION: Upon motion by Commissioner Lopez, the Board voted 3-1-1 (Vice President Lazarus dissented and President Swig absent) to grant the appeal and overturn the determination on the basis that the SFMTA is equitably estopped from revoking the medallion because Mr. Skrak reasonably relied on conversations with SFMTA managers and representatives who advised him that he had a waiver of the Full Time Driving Requirement and he should not sell his medallion. Further, allowing him to keep his medallion is necessary to avoid a grave injustice, it would not defeat a strong public policy and would not create any safety issues for the public. Lacking the four votes needed to pass the motion failed.

Upon motion by Commissioner Honda, the Board voted 3-1-1 (Vice President Lazarus dissented and President Swig absent) to continue this matter to the Board's Call of the Chair for one year, on the basis that the SFMTA may enact legislation that would give Mr. Skrak the opportunity to sell his medallion.

SPEAKERS: Heidi Machen, attorney for appellant; Philip Cranna, SFMTA

PUBLIC COMMENT: Carl Macmurdo, Marcelo Fonseca and Evelyn Poquez spoke in support of the appellant.

(6) APPEAL NO. 22-018

<p>DR. CHUN PANG TONY KIR and DR. RYAN KIR, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p>	<p>729 Vallejo Street. Appealing the ISSUANCE on March 11, 2022, of a Revocation Request (the Planning Department requests that the DBI revoke Building Permit No. 2021/0525/0983. The subject permit was approved by the Planning Department in error on May 25, 2021 and issued by DBI on January 4, 2022. The scope of work included the change of use from an existing bar to a dental office (Health Services) and associated interior tenant improvements. No exterior work was included within the scope of this permit. Per Planning Code Section 722, Health Services are not permitted at the ground floor within the North Beach Neighborhood Commercial District. As such, the permit was approved by Planning in error, and the permit should not have been issued. The Planning Department requests revocation because the scope of work violates the Planning Code and there is no legislation proposed to amend the Code in a manner to address the issue). PERMIT NO. 2021/05/25/0983. FOR HEARING TODAY.</p>
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ACTION: Upon motion by Vice President Lazarus, the Board voted 4-0-1 (President Swig absent) to deny the appeal and uphold the Revocation Request on the basis that the Zoning Administrator did not err or abuse his discretion, and the Determination was properly issued since Health Services are not permitted on the ground floor within the North Beach Neighborhood Commercial District.

REGULAR MEETING, BOARD OF APPEALS, APRIL 13, 2022 - PAGE 4

SPEAKERS: Dr. Chun Pang Tony Kir, appellant; Dr. Ryan Kir, appellant; Candy Liu, agent for appellants; Tina Tam, PD.

PUBLIC COMMENT: None.

(7) APPEAL NO. 22-006

VALERIE KIRK, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2154 Leavenworth Street. Appealing the ISSUANCE on January 25, 2022, to Will Sevush, of an Alteration Permit (revision to Building Permit No. 2021/0212/4580; add seven new skylights). PERMIT NO. 2022/01/12/5863. FOR HEARING TODAY.
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ACTION: None. The appeal was withdrawn prior to the hearing.

(8) APPEAL NO. 22-013

SUSY CHEN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	436 Eureka Street. Appealing the ISSUANCE on February 11, 2022, to Steve Martisauskas, of a Site Permit (Horizontal expansion at rear of all levels; new interior stairs to connect all levels; remodel and reconfigure interior walls throughout per plans; excavate and expand existing garage; new doors and windows per elevations, two new bedrooms and two new bathrooms; in ground hot tub location in rear yard; remodel kitchen). PERMIT NO. 2018/10/09/2526. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Honda, the Board voted 4-0-1 (President Swig absent) to grant the appeal and issue the permit on the condition it be revised to require the adoption of the revised plans which are in Exhibit 9 of the permit holder's brief. This motion was made on the basis that the revised plans are code compliant and address some of the appellant's concerns.

SPEAKERS: Susy Chen, appellant; Ryan Patterson, attorney for appellant; Nick Thomas, agent for permit holder; Alice Barkley, attorney for permit holder; Tina Tam, PD; Kevin Birmingham, DBI.

PUBLIC COMMENT: Christine, Moritz Dickfeld, Alireza Daute Shojaei and Jerry Kelly spoke in support of the appellant.

ADJOURNMENT.

There being no further business, Vice President Lazarus adjourned the meeting at 7:47 p.m.

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

<https://sfgov.org/bdappeal/meeting/board-appeals-april-13-2022-supporting-documents>

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

https://sanfrancisco.granicus.com/player/clip/41012?view_id=6&redirect=true

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