

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

DRAFT MEETING MINUTES - WEDNESDAY, JANUARY 27, 2021 **REMOTE MEETING VIA ZOOM**

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

Brad Russi, Deputy City Attorney, Office of the City Attorney (CAT); Scott Sanchez, Deputy Zoning Administrator, Planning Department (PD); Joseph Duffy, Acting Deputy Director, Department of Building Inspection (DBI); Julie Rosenberg, Executive Director; Alec Longaway, Legal Process Clerk.

(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) ELECTION OF OFFICERS

ACTION: Upon motion by Commissioner Swig, the Board vote 5-0 to elect Darryl Honda as President of the Board of Appeals.

Upon a motion by President Honda, the Board voted 5-0 to elect Eduardo Santacana as Vice President of the Board of Appeals.

PUBLIC COMMENT: None.

(3) COMMISSIONER COMMENTS & QUESTIONS

SPEAKERS: Commissioner Swig thanked Commissioner Lazarus for her great leadership while serving as President of the Board.

Vice President Santacana seconded Commissioner Swig's comments. He further stated that he would have to leave the meeting early.

PUBLIC COMMENT: None.

(4) **ADOPTION OF MINUTES**

Discussion and possible adoption of the January 13, 2021 minutes.

ACTION: Upon motion by Commissioner Swig, the Board voted 5-0 to adopt the January 13, 2021 minutes.

PUBLIC COMMENT: None.

(5) **SPECIAL ITEM**

Board of Appeals Budget Priorities for Fiscal Years 21-22 and 22-23. This is an opportunity for members of the public to provide the Board input on budget priorities pursuant to Section 3.3(b)(1) of the Administrative Code in advance of the Board's consideration of the FY 21-22 and FY 22-23 budget.

SPEAKERS: None.

PUBLIC COMMENT: None.

DRAFT

(6) APPEAL NO. 19-123

MALCOLM YEUNG, Appellant(s)

vs.

ZONING ADMINISTRATOR, Respondent

838 Grant Avenue.

Appealing the ISSUANCE on October 29, 2019, to Malcolm Yeung, of a Letter of Determination (determination that the nonconforming Restaurant use on the 5th and 6th floors of the subject property has not been discontinued or otherwise abandoned pursuant to Planning Code section 183(a); the determination is based on the fact that a building permit was submitted within the three-year discontinuance period to significantly renovate the Restaurant space, additional permits were subsequently issued for additional work for the Restaurant use, all of these permits are still active and the authorized work and associated inspections have already begun). RECORD NO. 2019-014303ZAD.

FOR FURTHER CONSIDERATION.

Note: On January 29, 2020, upon motion by Commissioner Santacana, the Board voted 4-0-1 (President Lazarus absent) to continue the matter to February 19, 2020 so that the appellant could retain a new attorney and the parties could submit briefs, with further direction to DBI and the Planning Department that no permits associated with the subject property could be delayed because of the continuance. The February 19, 2020 Board meeting was canceled due to a lack of a quorum, consequently, the matter was rescheduled to March 11, 2020. On March 11, 2020, upon motion by Commissioner Swig, the Board voted 4-1 (President Lazarus dissented) to continue this matter to April 1, 2020 so that: (1) the property owner could provide: (a) the lease for the property, (b) the original permit application, and (c) evidence of when work began on the 5th floor, (2) the property owner could appear at the hearing, (3) DBI and/or the Planning Department could conduct an inspection of the subject property to confirm the elements represented in the LOD, and (4) the Planning Department could provide an explanation regarding what factors are considered by the Planning Department when making a determination as to whether or not there are multiple uses. The April 1, 2020 meeting was canceled due to the shelter-in-place health order so this appeal was put on the Call of the Chair. The matter was thereafter put on the December 16, 2020 calendar, with the agreement of the parties. On December 16, 2020, upon motion by Vice President Honda, the Board voted 3-2 (President Lazarus and Commissioner Santacana dissented) to continue this matter until January 27, 2021 so that the parties can have a mindful and meaningful conversation and the project sponsor can reach out to the community.

ACTION: Upon motion by Commissioner Lazarus, the Board voted 3-2 (President Honda and Commissioner Chang dissented) to deny the appeal and uphold the Letter of Determination on the basis that the Zoning Administrator did not err or abuse his discretion and the Determination was properly issued.

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); Thomas Gersey, attorney for appellant; James Reuben, attorney for property owner; John Yee, property owner; Scott Sanchez, PD; Joseph Duffy, DBI.

PUBLIC COMMENT: Jin, Carina Fong, Tony, Rosa Chen, Michelle Wong, Bella Lam, Samuel Wang, Rachel Lee, Jennie Wong, Elizabeth Souw, Cindy, Kim Chong, Albert Louie, Ella and Kathy Young spoke in support of the property owner.

(7) APPEAL NO. 20-085

| | |
|---|---|
| <p>SPENCER GOSCH, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p> | <p>945-947 Minnesota Street. Appealing the ISSUANCE on December 2, 2020, to Reed and Aleena Moulds, of a Variance Decision (the proposal is to reconstruct an existing non-complying rear stair and to add a new rear deck and roof deck with a spiral stair connecting the two deck areas; the rear yard is required to be 33 feet 4 inches and the proposed rear stair and spiral stair will extend into the required rear yard and result in a rear yard of approximately 17 feet, therefore a rear yard variance is required; the Zoning Administrator granted the rear yard variance). CASE NO. 2019-005728VAR. FOR HEARING TODAY.</p> |
|---|---|

ACTION: Upon motion by Commissioner Swig, the Board voted 4-0-1 (Vice President Santacana absent) to deny the appeal and uphold the Variance on the basis that it meets the five findings required under Planning Code Section 305(c).

SPEAKERS: Spencer Gosch, appellant; Suheil Shatara, agent for determination holders; Reed and Aleena Moulds, determination holders; Scott Sanchez, PD; Joseph Duffy, DBI.

PUBLIC COMMENT: Annette Carrier spoke in support of the appellant.

(8) APPEAL NO. 20-087

| | |
|---|---|
| <p>EDMUND LOUIE and MARY CONSTANCE PARKS, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p> | <p>482 16th Avenue.</p> <p>Appealing the ISSUANCE on December 9, 2020, to Mark Sole, of a Variance Decision (the proposal is to legalize the construction of a rear deck and stairs; the demolition of the previously existing deck was approved by the Planning Dept. in May 2012, however, the deck was reconstructed to be larger than previously existed and the stairs were shifted from the middle of the lot to the northern property line; therefore both the deck and stairs require legalization; the subject property has a required rear yard of approximately 39 feet and the deck and stairs proposed for legalization are entirely located within the required rear yard; the Zoning Administrator granted the rear yard variance).</p> <p>CASE NO. 2019-005619VAR. FOR HEARING TODAY.</p> |
|---|---|

ACTION: Upon motion by President Honda, the Board voted 3-1-1 (Commissioner Lazarus dissented and Vice President Santacana absent) to continue this matter to February 10, 2021 so that: (1) the determination holder can correct the errors in the plans including the location of the appellants' bathroom windows (relative to the firewall and staircase), the location of the 45% rear yard lot line, and the height and measurements of the staircase, (2) the parties can discuss measures that will mitigate the impacts of the staircase and firewall if they remain in the current location, and (3) the determination holder can provide a statement explaining the cost and requirements for relocating the staircase.

SPEAKERS: Edmund Louie and Mary Constance Parks, appellants; Mark Sole, determination holder; Scott Sanchez, PD; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

(9) APPEAL NO. 20-083

| | |
|---|---|
| <p>524 UNION STREET, GENERAL PARTNERSHIP, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p> | <p>524 Union Street. Appealing the ISSUANCE on November 19, 2020, to 524 Union Street, General Partnership, of a Letter of Determination (determination by the Zoning Administrator that the Restaurant use of the Property has not been “abandoned” per Planning Code section 178(d) based on the unique history and facts of the property including the following: previous authorizations by the Planning Commission and Planning Department for a Restaurant use; the historic use of the property as a restaurant as evidenced by the information contained in the Landmark Designation, including the character defining interior elements; the current suitability and usability of the Property as a restaurant use and the fact that the use has not been changed from a restaurant use to any other use; and the consistent efforts to lease the premises as a restaurant; accordingly a Restaurant use may continue to operate). RECORD NO. 2020-004519ZAD. FOR HEARING TODAY.</p> |
|---|---|

ACTION: Upon motion by Commissioner Swig, the Board voted 4-0-1 (Vice President Santacana absent) to deny the appeal and uphold the Letter of Determination on the basis that the Zoning Administrator did not err or abuse his discretion, and the Determination was properly issued.

SPEAKERS: Barak Smucha, agent for appellant; Scott Sanchez, PD.

PUBLIC COMMENT: None.

ADJOURNMENT

There being no further business, President Honda adjourned the meeting at 9:10 p.m.

The supporting documents for this meeting can be found at the following link:
<https://sfgov.org/bdappeal/meeting/board-appeals-january-27-2021-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=37649