

# **BOARD OF APPEALS**

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

### **MEETING MINUTES - WEDNESDAY, DECEMBER 17, 2014**

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

PRESENT: President Ann Lazarus, Commissioner Frank Fung, Commissioner Darryl Honda and Commissioner Bobbie Wilson.

Robert Bryan, Deputy City Attorney, Office of the City Attorney (OCA); Corey Teague, Assistant Zoning Administrator (ZA); Joseph Duffy, Senior Building Inspector, Department of Building Inspection (DBI); Nick Elsner, Senior Plan Checker, Department of Public Works Bureau of Street Use and Mapping (DPW BSM); Chris Buck, Investigator, Department of Public Works, Bureau of Urban Forestry (DPW BUF); Cynthia Goldstein, Executive Director; Victor Pacheco, 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. 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: None.

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

Discussion and possible adoption of the December 10, 2014 minutes.

ACTION: Upon motion by Commissioner Honda, the Board voted 4-0 to adopt the December 10, 2014 minutes.

SPEAKERS: None.

PUBLIC COMMENT: None.

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**(4) APPEAL NO. 14-172**

KEVIN McELROY, Appellant(s) vs.  DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	2707 - 21st Street. Appealing the DENIAL on September 26, 2014, of a Tree Removal Permit (denial of request to remove four (4) privately maintained street trees with one (1) replacement tree). ORDER NO. 182947. FOR HEARING TODAY.
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**ACTION:** Upon motion by President Lazarus, the Board voted 4-0 to grant the appeal, overturn the denial and issue the permit on the basis that an alternative tree species would be more suitable for the neighborhood, and on the condition that the replacement trees be of a 24" box size and with the species to be selected by the Department of Public Works in consultation with the appellant.

**SPEAKERS:** Kevin McElroy, appellant; Chole Sladden, agent for appellant; Chris Buck, DPW.

**PUBLIC COMMENT:** None.

**(5) APPEAL NO. 14-173**

JULIAN P. LAGOS, Appellant(s) vs.  DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	131 Grijalva Drive. Protesting the ISSUANCE on September 26, 2014, to Arborwell, of a Tree Removal Permit (removal with replacement of two (2) privately maintained street trees). ORDER NO. 182941. FOR HEARING TODAY.
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**ACTION:** Upon motion by Commissioner Honda, the Board voted 4-0 to grant the appeal and uphold the permit on the basis that the trees are hazardous and on the condition that they be replaced with 48" box size trees, with the species to be selected by the Department of Public Works in consultation with the permit holder.

**SPEAKERS:** Julian Lagos, appellant; Chris Buck, DPW. The permit holder did not appear.

**PUBLIC COMMENT:** Diane Carpio spoke in support of the appellant.

**(6) APPEAL NO. 14-154**

<p>TAM CHUN SHAN, YUK YU CHUNG &amp; CERISE CHENG, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>834 - 44th Avenue. Protesting the ISSUANCE on August 22, 2014, to 834 - 44th Avenue LLC, of an Alteration Permit (convert two-story, single-family home into a three-story, two-unit building with two off-street parking spaces). APPLICATION NO. 2011/10/04/6071S. PUBLIC HEARING HELD ON NOV. 19, 2014. FOR FURTHER CONSIDERATION TODAY. <b>Note: matter was continued to allow time for DBI to conduct a site inspection, and for the permit holder to submit revised plans; no additional briefing is allowed.</b></p>
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**ACTION:** Upon motion by Commissioner Fung, the Board voted 4-0 to grant the appeal on the basis of the agreement of the parties, and condition the permit on the adoption of revised plans dated December 17, 2014. The Board noted that the Department of Building Inspection shall review the foundation for Code compliance at the completion of demolition.

**SPEAKERS:** John Lau, agent for appellant; John Kevin, attorney for permit holder; Joseph Duffy, DBI; Corey Teague, ZA.

**PUBLIC COMMENT:** None.

**(7) REHEARING REQUEST**

**Subject property at 958 Geary Street.** Letter from Charles Pappas, appellant, requesting rehearing of Appeal No. 14-149, Pappas vs. ZA, decided November 19, 2014. At that time, upon motion by Commissioner Fung, the Board voted 3-1-1 (Commissioner Honda dissented, one vacancy) to uphold the Letter of Determination on the basis that the Zoning Administrator did not err or abuse his discretion. LOD: regarding whether a Medical Cannabis Dispensary (MCD) may be re-established at the retail space located at the subject property.

**ACTION:** Upon motion by Commissioner Fung, the Board voted 4-0 to deny the rehearing request.

**SPEAKERS:** Charles Pappas, requestor; Corey Teague, ZA.

**PUBLIC COMMENT:** None.

**(8) REHEARING REQUEST**

**Subject property at 1264 – 6<sup>th</sup> Avenue.** Letter from Ken Miller & Julie McKenzie, appellants, requesting rehearing of Appeal No. 14-162, Miller & McKenzie vs. DBI, PDA, decided November 19, 2014. At that time, upon motion by Commissioner Fung, the Board voted 4-0-1 (one vacancy) to uphold the subject permit on the basis that it is Code compliant. Permit Holders: Clay Leighton & Andrea Sello. Project: new three-story rear addition with 3rd floor 72sf deck; BPA No. 2013/06/26/0594S.

ACTION: Upon motion by President Lazarus, the Board voted 4-0 deny the rehearing request.

SPEAKERS: Julie McKenzie, requestor; David Silverman, attorney for permit holder.

PUBLIC COMMENT: None.

**(9) JURISDICTION REQUEST**

**Subject property at 1784 Sanchez Street.** Letter from Anthony Grumbach, Katherine Poole and Isabel Talusen Escalada, requestors, asking that the Board take jurisdiction over Variance Case No. 2013.0831V, which was granted on October 08, 2014 by the Zoning Administrator. The appeal period ended on October 20, 2014, and the jurisdiction request was filed at the Board office on November 25, 2014. Variance Holders: James Monschke & Anastasia Micheals. Project: construct a two-story horizontal addition at the rear of the building.

ACTION: Upon motion by Commissioner Honda, the Board voted 4-0 to grant the jurisdiction request on the basis that the Department inadvertently caused the requestors to miss the appeal filing deadline.

SPEAKERS: Kate Poole, requestor; Brett Gladstone, attorney for permit holders; Anastasia Micheals, permit holder; Corey Teague, ZA.

PUBLIC COMMENT: Joan Lionberger spoke in support of the permit holders.

**(10) JURISDICTION REQUEST**

**Subject property at 614 Noe Street.** Letter from Jeremy Paul, agent for Steve Gerard, requestor, asking that the Board take jurisdiction over BPA No. 2014/08/18/4036, which was issued on August 26, 2014 by the Dept. of Building Inspection. The appeal period ended on September 10, 2014, and the jurisdiction request was filed at the Board office on December 01, 2014. Permit Holder: Stephan Fawler. Project: revision to BPA No. 2012/09/05/8924; new roof deck with retractable skylight for stair access.

ACTION: Upon motion by President Lazarus, the Board voted 4-0 to deny the jurisdiction request.

SPEAKERS: Jeremy Paul, agent for requestor; Melinda Sarjapur, attorney for permit holder; Corey Teague, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

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**(11) APPEAL NO. 14-146**

GEORGE & MYRTA MATULA, Appellant(s) vs.  DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent	1410 Stanyan Street. Protesting the ISSUANCE on August 07, 2014, to KM 26th Street Properties LLC, of a STREET IMPROVEMENT PERMIT (construct new 15' wide concrete sidewalk and concrete curb per City standards to provide a walking path from Clarendon Avenue to access the subject property). PERMIT NO. 14IE-0730. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0 to deny the appeal and uphold the permit on the basis that it is Code compliant.

SPEAKERS: Steven Williams, attorney for appellants; Mark Brand, agent for permit holder; Nick Elsner, DPW.

PUBLIC COMMENT: James Scanlan, Charles Hsu, Linda Lyons and Arnold Rotbert spoke in support of the appellant.

**(12) APPEAL NO. 14-175**

PHILLIP ACHILLES, Appellant(s) vs.  ZONING ADMINISTRATOR, Respondent	819 Ellis Street. Protesting the ISSUANCE on October 01, 2014, of a Notice of Violation & Penalty (regarding the operation of an unauthorized tourist hotel at the third floor of the parking garage). FOR HEARING TODAY.
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ACTION: This matter was withdrawn prior to hearing.

**(13) APPEAL NO. 14-176**

JASON BLEY, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	731 Commercial Street. Protesting the ISSUANCE on October 03, 2014, to Charity Cultural Services Center, of an Alteration Permit (add 4 risers stair between 731 and 731 and provide improved entrance accessibility to 731; new doors to match wood existing and to include power door assist). APPLICATION NO. 2014/09/30/7675. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0 to continue this matter to January 21, 2015 to allow the Department of Building Inspection (DBI) time to conduct a site visit

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to verify what Americans with Disabilities Act (ADA) requirements DBI has imposed on the permit holder.

SPEAKERS: Jason Bley, appellant; Mel Lee, agent for permit holder; Duke Crestfield, agent for permit holder; Kevin Ding, agent for permit holder; Corey Teague, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: Constant Suen spoke in support of the permit holder.

**(14) APPEAL NO. 14-188**

CRIS & TINA IBARRA, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent	41 Lake Street. Protesting the ISSUANCE on November 10, 2014, to Kyle Patterson, of an Alteration Permit (remove existing foundation at west property line and construct new compliant foundation - install new anchor bolts & plywood (voluntary) at new foundation and wall above). APPLICATION NO. 2014/08/29/5065. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0 to grant the appeal and condition the permit by: (1) adding 39 Lake Street to the permit address; and (2) adopting revised plans dated December 17, 2014.

SPEAKERS: Patrick Buscovich, agent for appellant; Cris Ibarra, appellant; Kyle Patterson, permit holder; Joseph Duffy, DBI;

PUBLIC COMMENT: None.

**ADJOURNMENT.**

There being no further business, President Lazarus adjourned the meeting at 9:15 p.m.