

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
DON TOY & ANDY CREAGER,)
Appellant(s))
vs.)
ZONING ADMINISTRATOR,)
Respondent)

Appeal No. 14-118

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on June 19, 2014, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the **ISSUANCE** on June 17, 2014, of Letter of Determination (regarding whether a deck deeded for exclusive use by one unit can be enclosed and converted into habitable space to be divided equally between two units) at 1957-1959 Beach Street.

FOR HEARING ON August 20, 2014

Address of Appellant(s):

Don Toy & Andy Creager, Appellants
2030 Union Street #202
San Francisco, CA 94123

Address of Other Parties:

N/A



Date Filed:

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

JUN 19 2014

APPEAL #

14-118

PRELIMINARY STATEMENT OF APPEAL

I / We, **Don Toy & Andy Creager**, hereby appeal the following departmental action: **ISSUANCE** of **Letter of Determination** by the **Zoning Administrator** which was issued or became effective on: **June 17, 2014**, for the property located at: **1957-1959 Beach Street**.

BRIEFING SCHEDULE:

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: **July 31, 2014, (no later than three (3) Thursdays prior to the hearing date)**, up to 12 pages in length, double-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

Respondent's and Other Parties' Briefs are due on or before: **August 14, 2014, (no later than one (1) Thursday prior to hearing date)**, up to 12 pages in length, doubled-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

Only photographs and drawings may be submitted by the parties at hearing.

Hearing Date: **Wednesday, August 20, 2014, 5:00 p.m., City Hall, Room 416, One Dr. Carlton B. Goodlett Place.**

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any change to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should submit an original and 10 copies of all documents of support/opposition no later than one (1) Thursday prior to hearing date by 4:30 p.m. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection at the Board's office. You may also request a copy of the packet of materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

If you have any questions please call the Board of Appeals at 415-575-6880

The reasons for this appeal are as follows:

see attached.

Appellant or Agent (Circle One):

Signature: Andy Creager

Print Name: Andy Creager

Don Toy

Andy Creager
1957 Beach Street
San Francisco, CA 94123
415-377-8312
andyc@solvedebts.com

BOARD OF APPEALS

JUN 19 2014
APPEAL # 14-118

Don Toy
1959 Beach Street
San Francisco, CA 94123
415-652-1667
dontoy2009@gmail.com

6/19/14

Request for Appeal

Re: 1957 and 1959 Beach Street Exclusive Use Deck, Block 0441A/Lot 001

Dear Mr. Pacheco,

We would like to please appeal the Letter of Determination from Scott Sanchez dated June 17, 2014.

We are seeking permission to build onto a 120 square foot exclusive use deck area. Both of our units are located on the top floor and we are the only top floor units. Andy Creager lives in 1957 and Don Toy lives in 1959.

We would like to please divide this space 50/50 between ourselves to expand our units. Under the current guidelines, technically only one unit can develop 100% of the space and the other unit would get 0%. We both agree it is unfair for one of us to give up the extra sunlight and views from our bonus windows to allow only one person to expand UNLESS we can share in the expansion. A shared expansion is mutually agreeable and beneficial.

If you were to allow us to split the space 50/50 the density of the building envelope would be identical to a split if done at 100/0 (which we understand would be allowable for a conforming unit). In the end, the same 120 square feet would be expanded. The appearance from the sidewalk would be identical and the envelope of our building as a cube would be the same as well.

After reviewing your website (<http://www.sf-planning.org/index.aspx?page=2581>) it appears that we would reasonably fall within the spirit of the five different guidelines for approval of a variance.

Thank you for your consideration,


Andy Creager



Don Toy



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

June 17, 2014

Andy Creager & Don Toy
1957-1959 Beach Street
San Francisco CA 94123

Site Address:
Assessor's Block/Lot:
Zoning District:
Staff Contact:

1957-1959 Beach Street
0441A/001
RH-1 (House, One-Family) District
Laura Ajello, (415) 575-9142 or laura.ajello@sfgov.org

BOARD OF APPEALS

JUN 19 2014

APPEAL # 14-118

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fac
415.558.6409

Planning
Information:
415.558.6377

Dear Mr. Creager & Mr. Toy:

This letter is in response to your request for a Letter of Determination regarding the property at 1955-1963 Street. This parcel is located in an RH-1 (House, One-Family) Zoning District with a 40-X Height and Bulk District. The parcel is developed with a 6-unit apartment building and is nonconforming as to density. The request is to determine whether a deck deeded for exclusive use by one unit can be enclosed and converted into habitable space to be divided equally between two units. One or both of the units in question is considered non-conforming (as described in Section 181 of the Planning Code).

The building is currently under review for conversion to condominiums (Case No. 2014.0613Q). As part of the condominium conversion process, based on the RH-1 zoning designation, five of the six existing units will officially be designated as nonconforming. A Notice of Special Restrictions will be required to designate the nonconforming units when any future expansion is proposed. Your letter states that the only undeveloped area on the lot is a 120 square foot deck on the third floor, which is only accessible by units 1957 and 1959. Your understanding of the Planning Code is correct; only the unit designated as conforming is able to be expanded.

Pursuant to Section 181 of the Planning Code, a nonconforming use, and any structure occupied by such use, shall not be enlarged, intensified, extended, or moved to another location, unless the result will be elimination of the nonconforming use. Pursuant to Section 181.1(a), a nonconforming use shall not be extended to occupy additional space in a structure, or additional land outside a structure, or space in another structure, or to displace any other use. This applies to five of the six dwelling units. Therefore, the proposed expansion is possible for one unit only, which must be designated as the conforming one-family use on the subject property.

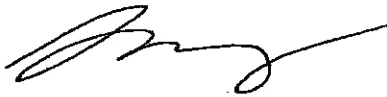
Please note that enclosing this private open space area would increase the size of the building envelope and change a street facing façade. As the existing building is over 45 years old and the project is visible from the public right-of-way, an Environmental Evaluation application with Supplemental Historic Resource Determination would be required.

Andy Creager & Don Toy
1957-1959 Beach Street
San Francisco CA 94123

June 17, 2014
Letter of Determination
1957-1959 Beach Street

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



Scott F. Sanchez
Zoning Administrator

BOARD OF APPEALS
JUN 19 2014
APPEAL # 14-118

cc: Property Owner
Neighborhood Groups
Laura Ajello, Planner

To: San Francisco Board of Appeals

Re: Appeal No. 14-118
Toy & Creager vs. ZA
1957-1959 Beach Street

BOARD OF APPEALS
SEP 11 2014
APPEAL # 14-118

Dated: 10 September 2014

We are homeowners of property on Avila Street adjacent to the subject property on Beach Street, and we respectfully request that the Board of Appeal deny the herein appeal and affirm the decision of the Zoning Administrator set out in his Letter of Determination of June 17, 2014.

The Zoning administrator was correct in his findings that the property herein seeking a variance:

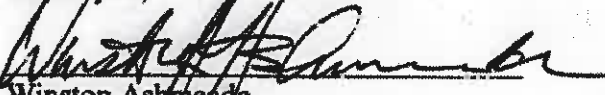
1. is a six-unit non-conforming apartment building located in a single-family RH-1 zoning district; and
2. that the Planning Code does not allow for the enlargement or intensified use of a non-conforming structure; and
3. that the structure already occupies 100% of the lot, and any vertical increase in the size of the building will significantly alter the street-facing façade.

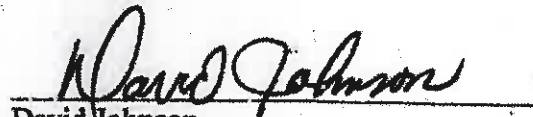
In addition, please consider the following:

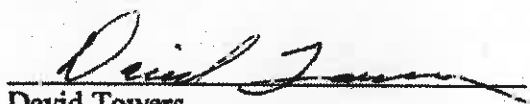
4. the structure is a classic Marina three-storey apartment building, over 45 years old, which has previously been in harmony with the other buildings at the intersection of Beach and Avila Streets. Those other three buildings at this intersection are under-stated single-family homes, and they have joined with this classic and stately building to present a streetscape which is attractive and visually pleasing. The appellant has previously erected a fourth-floor roof deck, which already significantly degrades the appearance of the building, and any enclosure or further expansion of it would only serve to emphasize the eyesore that it has become.


The Zoning Administrator did not err in his determination, nor did he abuse his discretion, and we therefore ask that you deny this appeal and affirm his decision.

Thank you,


Winston Ashmeade
275 Avila St, San Francisco, CA 94123
ashmeade@pacbell.net


David Johnson
275 Avila St, San Francisco, CA 94123
ashmeade@pacbell.net


David Towers
287 Avila St, San Francisco, CA 94123
veetowers@gmail.com


Valerie Towers
287 Avila St, San Francisco, CA 94123
veetowers@gmail.com