

# **BOARD OF APPEALS**

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

### **MEETING MINUTES - WEDNESDAY, JULY 16, 2014**

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

PRESENT: President Ann Lazarus, Vice President Arcelia Hurtado, Commissioner Frank Fung, Commissioner Darryl Honda and Commissioner Chris Hwang.

Robert Bryan, Deputy City Attorney, Office of the City Attorney (OCA); Scott Sanchez, Zoning Administrator (ZA); Joseph Duffy, Senior Building Inspector, Department of Building Inspection (DBI); Carla Short, Deputy Bureau Manager, Department of Public Works Bureau of Street Use and Mapping (DPW); Janine Young, Senior Health Inspector, Department of Public Health Environmental Health Section (DPH); 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.

PUBLIC COMMENT: None.

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

Discussion and possible adoption of the July 16, 2014 minutes.

ACTION: Upon motion by Commissioner Honda, the Board voted 5-0 to adopt the July 16, 2014 minutes.

SPEAKERS: None.

**REGULAR MEETING, BOARD OF APPEALS, JULY 16, 2014 - PAGE 2**

PUBLIC COMMENT: None.

**(4) JURISDICTION REQUEST**

**Subject property at 399 Fremont Street.** Letter from Thomas Tunny, attorney for 399 Fremont LLC, requestor, asking that the Board take jurisdiction over the issuance of a Project Development Fee Report regarding BPA No. 2006/05/16/1774 by the Department of Building Inspection. The appeal period began on June 13, 2013 and ended on June 28, 2013; and this jurisdiction request was filed at the Board office on June 18, 2014. Project: erect a 42-story building with 452 dwelling units and three basement levels.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to deny the request.

SPEAKERS: Thomas Tunny, attorney for requestor; Scott Sanchez, ZA.

PUBLIC COMMENT: None.

**(5) APPEAL NO. 14-100**

ALEX KIM dba "IT'S MARKET",, Appellant(s) vs. DEPT. OF PUBLIC HEALTH, Respondent	1561 Fillmore Street. Appealing the SUSPENSION on May 19, 2014, of Tobacco Sales Establishment Permit (suspension of 25 days for selling tobacco to minors). CASE NO. SMK-1403. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-1 (Commissioner Hwang dissented) to grant the appeal and reduce the suspension to fifteen days on the basis that the violation was a first offense.

SPEAKERS: Robert Cummings, attorney for appellant; Alex Kim, appellant; Janine Young, DPH.

PUBLIC COMMENT: Rev. Arnold Townsend spoke in support of the appellant.

**ITEMS (6A), & (6B) SHALL BE HEARD TOGETHER:**

**(6A) APPEAL NO. 14-097**

STEVEN CURRIER & NANCY BARSOTTI, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent	1149 Prague Street. Protesting the ISSUANCE on May 02, 2014, to SBC - Pacific Bell Engineering, UTILITY EXCAVATION PERMIT (install new cabinet). APPLICATION NO. 14EXC-1815. FOR HEARING TODAY.
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**REGULAR MEETING, BOARD OF APPEALS, JULY 16, 2014 - PAGE 3**

**(6B) APPEAL NO. 14-115**

STEVEN CURRIER, Appellant(s) vs.  DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent	1149 Prague Street. Protesting the ISSUANCE on April 04, 2014, to SBC- Pacific Bell Engineering, UTILITY EXCAVATION PERMIT (install new cabinet). APPLICATION NO. 14EXC-1815. JURISDICTION GRANTED JUNE 11, 2014. FOR HEARING TODAY.
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**ACTION:** Upon motion by Vice President Hurtado, the Board voted 4-0-1 (President Lazarus recused) to grant the appeals, overturn the Department and deny the permits on the basis that the permits do not comply with San Francisco Public Works Code Article 27 (Ordinance No. 76-14), and with a finding that the one year bar to reapplication found in San Francisco Business and Tax Regulations Code Article 1, Section 31 does not apply.

**SPEAKERS:** Steven Currier, appellant; Nancy Barsotti, appellant; Foster Johnson, attorney for permit holder; Carla Short, DPW.

**PUBLIC COMMENT:** Luigi Gaglione, Frankie Pang and David Lowery spoke in support of the appellants.

**(7) APPEAL NO. 14-096**

TAMERA BRIONES, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1767 Northpoint Street. Protesting the ISSUANCE on April 28, 2014, to Pat Howson, Alteration Permit (one-story rear addition; legalize ground floor unit; convert from 2-unit R3 to 3-unit R2; new fire sprinkler system to be provided under separate permit). APPLICATION NO. 2012/07/30/6039"S". FOR HEARING TODAY.
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**ACTION:** Upon motion by Commissioner Hwang, the Board voted 5-0 to deny the appeal and uphold the permit on the basis that it is Code compliant.

**SPEAKERS:** Stephen Williams, attorney for appellant; Jaemin Chang, attorney for permit holder, Jack Scott, agent for permit holder; Pat Howson, permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI.

**PUBLIC COMMENT:** None.

**REGULAR MEETING, BOARD OF APPEALS, JULY 16, 2014 - PAGE 4**

**ITEMS (8A), (8B) & (8C) SHALL BE HEARD TOGETHER:**

**(8A) APPEAL NO. 14-098**

MARIA MARANGHI, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1020 Filbert Street. Protesting the ISSUANCE on March 20, 2014, to Xelan Prop 1 LLC, Alteration Permit (remove illegal unit and convert back to legal use as single family home; connect both floors with new stair case interior). APPLICATION NO. 2014/03/20/1296. FOR HEARING TODAY.
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**(8B) APPEAL NO. 14-101**

MARIA MARANGHI, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent	1000 Filbert Street. Protesting the ISSUANCE on May 08, 2014, to Xelan Prop 1 LLC, Alteration Permit (three kitchen and four bathroom remodel; units 1008, 1002, 1006 and 1000; no structural work). APPLICATION NO. 2014/05/07/5172. FOR HEARING TODAY.
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**(8C) APPEAL NO. 14-104**

MARIA MARANGHI, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent	1000 Filbert Street. Protesting the ISSUANCE on May 19, 2014, to Xelan Prop 1 LLC, Plumbing Permit (install forced air furnace). APPLICATION NO. PM2014/05/19/847. FOR HEARING TODAY.
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**ACTION:** Upon motion by Vice President Hurtado, the Board voted 5-0 to reschedule these appeals to September 17, 2014 at the request of the parties.

**SPEAKERS:** Nancy Conway, attorney for appellant; Karen Uchiyama, attorney for permit holder; Joseph Duffy, DBI.

**PUBLIC COMMENT:** None.

**REGULAR MEETING, BOARD OF APPEALS, JULY 16, 2014 - PAGE 5**

**(9) APPEAL NO. 14-119**

SMART CYCLE RECYCLING, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	405 - 10th Street. Protesting the ISSUANCE on June 05, 2014, of a Request for Suspension (requesting that BPA No. 2014/01/14/6245 be suspended for the reason that this permit was issued over- the-counter in error without the required neighborhood notification as per Planning Code Section 312). <b>FOR HEARING TODAY.</b>
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**ACTION:** Upon motion by Vice President Hurtado, the Board voted 5-0 to deny the appeal and uphold the suspension on the basis that the Zoning Administrator did not err or abuse his discretion.

**SPEAKERS:** Jay Houghton, attorney for appellant; Ors Csaszar, appellant; Scott Sanchez, ZA; Joseph Duffy, DBI.

**PUBLIC COMMENT:** Jim Mannix, Christopher Hall, James Spinello, Julie Seidel, Gayle Rubin, James Snidle, Adrian Simms, Martha Cooper and Jay Marston spoke in support of the Zoning Administrator.

**(10) APPEAL NO. 13-142**

GREG BLEDNYH & MARIA MAZZEI, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	181 Edgehill Way. Protesting the ISSUANCE on October 23, 2013, to Steven Fujii, Alteration Permit (drainage of property at rear; revision to BPA Nos. 2001/04/04/6019 and 2012/12/28/6978). APPLICATION NO. 2013/09/19/7262. PUBLIC HEARING HELD ON DEC. 18, 2013. FOR FURTHER CONSIDERATION TODAY. <b>Note: matter was continued to allow the DBI to formulate and require completion of emergency work, and for DBI to formulate a process to move the project forward.</b>
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**ACTION:** Upon motion by President Lazarus, the Board voted 5-0 to continue this matter to November 5, 2014 at the request of the parties.

**SPEAKERS:** None.

**PUBLIC COMMENT:** None.

**ADJOURNMENT**

There being no further business, President Lazarus adjourned the meeting at 8:50 p.m.