

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, OCTOBER 8, 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); Scott Sanchez, Zoning Administrator; Joseph Duffy, Senior Building Inspector, Department of Building Inspection (DBI); Aleeta Van Runkle, Deputy City Attorney for the Department of Public Health (DPH-OCA); Sherri Kaiser, Deputy City Attorney (DPH-OCA); Richard Lee, Acting Director, Environmental Health Branch DPH; Janine Young, Senior Health Inspector, DPH; Jonathan Piakis, Noise Control Officer, DPH; Cynthia Goldstein, Executive Director; Victor Pacheco, Legal Assistant.

ABSENT: Vice President Arcelia Hurtado.

(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: President Lazarus welcomed Commissioner Wilson to the Board and provided some background information on her. Commissioners Honda and Fung also welcomed Commissioner Wilson.

PUBLIC COMMENT: None.

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(3) ADOPTION OF MINUTES

Discussion and possible adoption of the September 17, 2014 minutes.

ACTION: Upon motion by Commissioner Honda, the Board voted 4-0-1 (Vice President Hurtado absent) to adopt the September 17, 2014 minutes.

SPEAKERS: None.

PUBLIC COMMENT: None.

(4) APPEAL NO. 14-071

VIVIAN LEE, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent	3688 Cesar Chavez Street. Protesting the ISSUANCE on April 15, 2014, to SBC-Pacific Bell Engineering, of a UTILITY EXCAVATION PERMIT (install new cabinet). APPLICATION NO. 14EXC-2149. PUBLIC HEARINGS HELD ON JUNE 11, AND JUNE 25, 2014. FOR FURTHER CONSIDERATION TODAY. Note: this matter was continued to allow time for the Department to meet with the permit holder to develop an exhibit that clearly depicts the lack of any viable alternative sites for this Surface Mounted Facility.
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ACTION: This matter was administratively dismissed prior to hearing because the subject permit application was withdrawn.

SPEAKERS: None.

PUBLIC COMMENT: None.

(5) APPEAL NO. 14-122

MONESH JOSAN dba "7-ELEVEN", Appellant(s) vs. DEPT. OF PUBLIC HEALTH, Respondent	43 Drumm Street. Appealing the SUSPENSION on June 11, 2014, of a Tobacco Sales Establishment Permit (25-day suspension for selling tobacco products to minors). DIRECTOR'S CASE NO. SMK-1407. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Vice President Hurtado absent) to grant the appeal and reduce the suspension to 15 days on the basis that it is the appellant's first offense.

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SPEAKERS: Julia Jayne, attorney for appellant; Monesh Josan, appellant; Aleeta Van Runkle, DPH-OCA.

PUBLIC COMMENT: Mohammed Zughaiyir spoke in support of the appellant.

(6) APPEAL NO. 14-141

MICHIKO YAMADA, Appellant(s) vs. DEPT. OF PUBLIC HEALTH, Respondent	1963 Sutter Street. Protesting the ISSUANCE on July 23, 2014, to Roostertail Restaurant, of a Noise Variance (regarding rooftop fan noise from mechanical exhaust system/equipment). FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Vice President Hurtado absent) to continue the appeal to November 19, 2014, to give the parties time to discuss settlement.

SPEAKERS: Michiko Yamada, appellant; Bruce Bonacker, agent for appellant; Eric Yee, agent for appellant; Gerard Darien, permit holder; Sherri Kaiser, DPH-OCA; Jonathan Piakis, DPH; Richard Lee, DPH; Joseph Duffy, DBI.

PUBLIC COMMENT: Paul Wermer, Robert Rusky, Kevin Chin and Karen Kai spoke in support of the appellant.

(7) REHEARING REQUEST

Subject property at 875 Stevenson Street. Letter from Patrick Buscovich, agent for Shorestein Properties LLC, appellant, requesting rehearing of Appeal No. 14-128, Shorestein Properties LLC vs. DBI, decided August 27, 2014. At that time, upon motion by Vice President Hurtado, the Board voted 3-1-1 (President Lazarus dissented, one vacancy) to uphold the denial of the subject permit on the basis that the denial was reasonable under DBI Administrative Bulletin No. AB-035 and DBI Policy No. G-03 (dated April 11, 2014). Project: new street address for this existing building; requesting 1 - 10th Street.
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ACTION: Upon motion by Commissioner Honda, the Board voted 4-0-1 (Vice President Hurtado absent) to reschedule this matter to December 17, 2014.

SPEAKERS: None.

PUBLIC COMMENT: None.

(8) JURISDICTION REQUEST

Subject property at 843 Capp Street. Letter from Jaime Carrillo requestor, asking that the Board take jurisdiction over BPA No. 2014/07/16/1400, which was issued on August 15, 2014 by the Dept. of Building Inspection. The appeal period ended on Sept. 02, 2014, and the jurisdiction request was filed at the Board office on Sept. 12, 2014. Permit Holder: Timothy Gillihan. Project: revert this property back to last legal use as a single-family dwelling; remove illegal kitchen on 2nd floor; remove dividing wall at 1st floor hallway; relocate entry doors; legal use and occupancy has been determined by a review of City records

ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Vice President Hurtado absent) to deny the request.

SPEAKERS: Courtney Brown, agent for requestor; Jaime Carrillo, requestor; Timothy Gillihan, permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: Mary Gallagher encouraged the Board to consider City laws addressing the removal of illegal units and that these laws are in flux. Andres Cosaro spoke in support of the appellant.

(9) REHEARING REQUEST

Subject property at 280-284 Union Street. Letter from John & Teresa Votruba, appellants, requesting rehearing of Appeal No. 14-132, Votruba vs. DBI, PDA, decided Sept. 10, 2014. At that time, upon motion by Vice President Hurtado, the Board voted 4-0-1 (one vacancy) to uphold the permit on the basis that it was properly issued and thoroughly vetted by all relevant City departments. Permit Holder: Clinton Choy. Project: replace existing roof decking and handrails; scope of work also includes to comply with complaint NOV No. 201049586; BPA No. 2011/11/17/9101.

ACTION: Upon motion by Commissioner Honda, the Board voted 4-0-1 (Vice President Hurtado absent) to deny the request.

SPEAKERS: John Votruba, requestor; Clinton Choy, permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

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(10) APPEAL NO. 14-105

MICHAEL KLOTSMAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2047 Polk Street. Protesting the ISSUANCE on May 30, 2014, to Gary Yeung, of a Plumbing Permit (remove stove and cap off gas pipe). APPLICATION NO. PP2014/05/30/128. PUBLIC HEARING HELD ON JULY 23, 2014. FOR FURTHER CONSIDERATION TODAY. Note: this matter was continued to allow time for the DBI to conclude its analysis of the dwelling unit's status; no additional briefing is allowed.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Vice President Hurtado absent) to grant the appeal and issue the permit on the condition that the suspension remain until a building permit is finally issued to remove the illegal unit and revert the unit to the last legal use.

SPEAKERS: Dave Crow, attorney for appellant; Stanley Riddell, attorney for permit holder; Joseph Duffy, DBI; Scott Sanchez, ZA.

PUBLIC COMMENT: None.

(11) APPEAL NO. 14-139

HEATHER KLEIN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	1551-1555 Treat Avenue. Appealing the DENIAL on July 11, 2014, of an Alteration Permit (legalize window replacement completed without permit; 9 of 12 windows on front facade; none of the replacement windows are bedroom windows; no additional work is being done). APPLICATION NO. 2014/03/21/1365. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Vice President Hurtado absent) to grant the appeal and issue the permit on the basis that the vinyl windows are similar in appearance to the original wood windows.

SPEAKERS: Heather Klein, appellant; Scott Sanchez, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

ITEMS (12A) AND (12B) SHALL BE HEARD TOGETHER;

(12A) APPEAL NO. 14-143

MICHELLE MEYER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1110 Ashbury Street. Protesting the ISSUANCE on July 25, 2014, to Ty Bash & Molly Mrowka, of an Alteration Permit (new horizontal addition at front; new vertical addition with roof deck; three new bathrooms, vanity, and remodel kitchen). APPLICATION NO. 2013/04/05/3911"S". FOR HEARING TODAY.
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(12B) APPEAL NO. 14-144

SUCHI PANDEY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1110 Ashbury Street. Protesting the ISSUANCE on July 25, 2014, to Ty Bash & Molly Mrowka, of an Alteration Permit (new horizontal addition at front; new vertical addition with roof deck; three new bathrooms, vanity, and remodel kitchen). APPLICATION NO. 2013/04/05/3911"S". FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 2-2-1 (Commissioner Honda and Commissioner Wilson dissented; Vice President Hurtado absent) to deny the appeal on the basis that the permit is Code compliant. Lacking the four votes required to pass, the motion failed. With no further motion made, the permit was upheld by operation of law.

SPEAKERS: Mary Gallagher, agent for appellants; Ty Bash, permit holder; Melinda Sarjapur, attorney for permit holders; Scott Sanchez, ZA.

PUBLIC COMMENT: W. Fourie, Adden Chystie, Dave Rion and Roman Rojas spoke in support of the appellants. Howard Epstein, Chris Durkin, Kirk Scott and Gleb Budman spoke in support of the permit holders.

ADJOURNMENT.

There being no further business, President Lazarus adjourned the meeting at 10:25 p.m.