

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, NOVEMBER 19, 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 (ZA); Joseph Duffy, Senior Building Inspector, Department of Building Inspection (DBI); Sherri Sokeland Kaiser, Deputy City Attorney for the Department of Public Health (DPH-OCA); June Weintraub, Acting Manager, Environmental Health Branch, Department of Public Health (DPH); Ryan Clausnitzer, Inspector, Environmental Health Branch, DPH; 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: President Lazarus and Commissioner Honda both thanked former Vice President Hurtado for her service on the Board.

PUBLIC COMMENT: None.

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the November 12, 2014 minutes.

ACTION: Upon motion by Commissioner Honda, the Board voted 4-0 to adopt the November 12, 2014 minutes.

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SPEAKERS: None.

PUBLIC COMMENT: None.

(4) 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). PUBLIC HEARING HELD ON OCTOBER 08, 2014. FOR FURTHER CONSIDERATION TODAY. Note: this matter was continued to allow time for the parties to attempt further settlement negotiations; additional briefing is allowed.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0 to grant the appeal and deny the variance on the basis that the existing sound levels do not conform to the noise ordinance, and with the adoption of written findings on December 10, 2014.

SPEAKERS: Michiko Yamada, appellant; Bruce Bonacker, agent for appellant; Charles Salter, agent for appellant; Eric Yee, agent for appellant; David Silverman, attorney for variance holder; Sherri Sokeland Kaiser, DPH-OCA; June Weintraub, DPH.

PUBLIC COMMENT: Kevin Chin, Karen Kai, Sean O'Brien, Katrina Forck, Robert Rusky and Paul Wermer spoke in support of the appellant.

(5) APPEAL NO. 14-157

LILY LOUIE, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	5525 Diamond Heights Blvd. Appealing the DENIAL on September 03, 2014, of a Tree Removal Permit (denial of request for removal with replacement of one (1) DPW maintained street tree). ORDER NO. 182887. FOR HEARING TODAY.
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ACTION: Upon motion by President Lazarus, the Board voted 2-2 (Commissioner Fung and Commissioner Honda dissented) to deny the appeal and uphold the denial of the permit on the basis that the tree is healthy and the Department of Public Works is committed to maintaining the tree and surrounding sidewalk. Lacking the three votes needed to pass, the motion failed. With no further motion made, the denial was upheld by operation of law.

SPEAKERS: Lily Louie, appellant, Chris Buck, DPW BUF.

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PUBLIC COMMENT: Betsy Eddy, Paul Matalucci and Karen Goodman spoke in support of the Department.

(6) APPEAL NO. 14-148

THOMAS GODDARD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4121 - 20th Street. Protesting the ISSUANCE on August 12, 2014, to 20th Street Trust, of an Alteration Permit (increase basement ceiling height from 6' to 8' by excavating down; place new concrete slab; repair cracked plastering on 1st, 2nd and 3rd floors). APPLICATION NO. 2014/08/11/3496. PUBLIC HEARING HELD ON NOV. 12, 2014. FOR FURTHER CONSIDERATION TODAY. Note: matter was continued to allow time for the DBI and permit holder to conduct a review of the site conditions; no additional briefing is allowed.
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ACTION: Upon motion by President Lazarus, the Board voted 4-0 to continue this matter to January 21, 2015.

SPEAKERS: None.

PUBLIC COMMENT: None.

(7) JURISDICTION REQUEST

Subject property at 271 Fair Oaks Street. Letter from Monique Farris, Attorney for John Roman, requestor, asking that the Board take jurisdiction over BPA No. 2014/08/18/4044, which was issued by the Department of Building Inspection on August 18, 2014. The appeal period ended on September 02, 2014, and this jurisdiction request was filed at the Board office on October 02, 2014. Project: remove undocumented basement unit, and restore to original storage space; comply with NOV No. 199710692. Permit Holder: AEBT LLC.

ACTION: Upon motion by Commissioner Fung, the Board voted 4-0 to reschedule this matter to December 10, 2014.

SPEAKERS: None.

PUBLIC COMMENT: None.

(8) APPEAL NO. 14-149

CHARLES PAPPAS dba "DIVINITY TREE PATIENTS' WELLNESS COOPERATIVE",, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent Subject Property Owner: 954 GEARY LP	958 Geary Street. Appealing the ISSUANCE on August 11, 2014, of Letter of Determination (regarding whether a Medical Cannabis Dispensary (MCD) may be re-established at the retail space located at the subject property). FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 3-1 (Commissioner Honda 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.

SPEAKERS: Charles Pappas, appellant; Scott Sanchez, ZA; Ryan Clausnitzer, DPH.

PUBLIC COMMENT: Shona Gochenaur, David Goldman, Michael Koehn, Albert Blais, Pamela Clark, Edward Breslin and Mina Smith spoke in support of the appellant. Charles Malcolm spoke in support of the Zoning Administrator.

(9) APPEAL NO. 14-154

TAM CHUN SHAN, YUK YU CHUNG & CERISE CHENG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	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. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0 to continue the appeal to December 17, 2014 to allow the Department of Building Inspection to inspect the site to determine what elements should be demolished, for revised plans to be submitted reflecting all needed revisions, and for the plans to match all lightwells of the adjoining properties at all levels.

SPEAKERS: John Lau, agent for appellants; James Lee, agent for appellants; John Kevlin, attorney for permit holder; Michael Dayan, permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI;.

PUBLIC COMMENT: None.

ITEMS (10A), (10B), AND (10C) SHALL BE HEARD TOGETHER:

(10A) APPEAL NO. 14-156

RICHARD & SANDY OCSKASY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1366 Green Street. Protesting the ISSUANCE on September 04, 2014, to Christopher Chu, of a Plumbing Permit (work category 1P; relocate washer and dryer; replace water heater). APPLICATION NO. PW2014/09/04/924. FOR HEARING TODAY.
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(10B) APPEAL NO. 14-159

RICHARD & SANDY OCSKASY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1366 Green Street. Protesting the ISSUANCE on September 12, 2014, to Christopher Chu, of an Alteration Permit (reinforce floor joists in bath; replace furnace, water heater, washer/dryer at existing laundry room at 4th floor). APPLICATION NO. 2014/09/12/6182. FOR HEARING TODAY.
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(10C) APPEAL NO. 14-160

RICHARD & SANDY OCSKASY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1366 Green Street. Protesting the ISSUANCE on September 04, 2014, to Christopher Chu, of an Electrical Permit (relocate power for washer/dryer). APPLICATION NO. EW2014/09/04/182. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0 to reschedule these matters to January 28, 2015 at the request of the parties.

SPEAKERS: None.

PUBLIC COMMENT: None.

ITEMS (11A) AND (11B) SHALL BE HEARD TOGETHER:

(11A) APPEAL NO. 14-158

CYNTHIA SMITH, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1264 - 6th Avenue. Protesting the ISSUANCE on September 08, 2014, to Clay Leighton & Andrea Sello, of an Alteration Permit (new three-story rear addition with 3rd floor 72sf deck). APPLICATION NO. 2013/06/26/0594S. FOR HEARING TODAY.
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(11B) APPEAL NO. 14-162

KEN MILLER & JULIE MCKENZIE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1264 - 6th Avenue. Protesting the ISSUANCE on September 08, 2014, to Clay Leighton & Andrea Sello, of an Alteration Permit (new three-story rear addition with 3rd floor 72sf deck). APPLICATION NO. 2013/06/26/0594S. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0 to deny the appeals and uphold the permit on the basis that the permit is Code compliant.

SPEAKERS: Cynthia Smith, appellant; Julie McKenzie, appellant; Ken Miller, appellant; David Sliverman, attorney for permit holders; Leslie Arnold, agent for permit holders; Scott Sanchez, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: Randall Schiller, Regina Karson, Richard Brydon, Helen Luke and Kimra McPherson spoke in support of the appellants. Katherine Rothrum and Joy Kent spoke in support of the permit holders.

ADJOURNMENT.

There being no further business, President Lazarus adjourned the meeting at 10:00 p.m.