

## **BOARD OF APPEALS**

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

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

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

PRESENT: Vice President Arcelia Hurtado, Commissioner Frank Fung and Commissioner Darryl Honda.

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); 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.

ABSENT: President Ann Lazarus.

#### **(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: Maneesh Jain spoke about a Jurisdiction Request filed by his neighbor seeking the Board's permission to file a late appeal on an alteration permit at 157 Randall Street. Mr. Jain explained that this Request had been on the Board's calendar for this meeting (Item #10) but was withdrawn the day before the hearing, with the requestors stating they intend to refile the request in order to obtain a later hearing date. Mr. Jain stated that his neighbors were given notice of the project at several points in the permitting process and that they did not object to the project until a lot-line encroachment dispute arose along with disagreement over how to weatherproof the two adjoining properties. Mr. Jain stated his belief that this dispute is better resolved through neighbor-to-neighbor negotiations and not through the Board's jurisdiction request process.

#### **(2) COMMISSIONER COMMENTS & QUESTIONS**

SPEAKERS: Commissioner Fung announced he will be absent from the October 29, 2014 meeting.

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PUBLIC COMMENT: None.

**(3) ADOPTION OF MINUTES**

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

ACTION: Upon motion by Vice President Hurtado, the Board voted 3-0-1 (President Lazarus absent) to adopt the September 10, 2014 minutes.

SPEAKERS: None.

PUBLIC COMMENT: None.

**(4) APPEAL NO. 14-116**

YONG HEON AHN dba "WESTERN SUNSET MARKET", Appellant(s) vs. DEPT. OF PUBLIC HEALTH, Respondent	4099 Judah Street. Appealing the SUSPENSION on June 11, 2014, of a Tobacco Sales Establishment Permit (15-day suspension for selling tobacco products to minors). DIRECTOR'S CASE NO. SMK-1410. FOR HEARING TODAY.
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ACTION: Upon motion by Vice President Hurtado, the Board voted 3-0-1 (President Lazarus absent) to uphold the 15 day suspension on the basis that the facts do not support the appellant's claim that the identification card was switched, and on a further basis that a mistake was made by the appellant to sell cigarettes to a minor.

SPEAKERS: Yong Heon Ahn, appellant, via interpreter (Korean); Janine Young, DPH.

PUBLIC COMMENT: None.

**(5) APPEAL NO. 14-136**

MICHAEL KLESTOFF, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	1812 Noriega Street. Appealing the DENIAL on July 09, 2014, of a Tree Removal Permit (denial of request to remove and replace one (1) privately maintained street tree). ORDER NO. 182750. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 3-0-1 (President Lazarus absent) to uphold the denial on the basis that the subject tree is healthy.

SPEAKERS: Michael Klestoff, appellant; Carla Short, DPW BUF.

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PUBLIC COMMENT: None.

**(6) JURISDICTION REQUEST**

**Subject property at 301 – 26<sup>th</sup> Avenue.** Letter from George Choppelas, requestor, asking that the Board take jurisdiction over Utility Excavation Permit No. 14EXC-2144, which was issued by the Dept. of Public Works on April 14, 2014. The appeal period ended on April 29, 2014, and this jurisdiction request was filed at the Board office on June 12, 2014. Permit Holder: SBC - Pacific Bell Engineering. Project: install new cabinet. **Note: public hearing held June 25, 2014; matter continued to allow Vice President Hurtado to participate in the final vote.**

ACTION: Upon motion by Vice President Hurtado, the Board voted 3-0-1 (President Lazarus absent) to grant the jurisdiction request on the basis that there were inadvertent errors made by the Department.

SPEAKERS: None.

PUBLIC COMMENT: None.

**(7) APPEAL NO. 14-079**

GEORGE CHOPPELAS, Appellant(s) vs.  DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent	301 - 26 <sup>th</sup> Avenue. Protesting the ISSUANCE on May 02, 2014, to SBC-Pacific Bell Engineering, of a UTILITY EXCAVATION PERMIT (install new cabinet). APPLICATION NO. 14EXC-2144. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 3-0-1 (President Lazarus absent) to reschedule the matter to November 5, 2014.

SPEAKERS: Steven MacDonald, attorney for appellant; Foster Johnson, attorney for permit holder.

PUBLIC COMMENT: None.

**(8) APPEAL NO. 14-117**

VIOLA YEE, Appellant(s) vs.  DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent	699 Page Street. Protesting the ISSUANCE on June 09, 2014, to SBC - Pacific Bell Engineering, of a UTILITY EXCAVATION PERMIT (install new cabinet). APPLICATION NO. 14EXC-3360. FOR HEARING TODAY.
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ACTION: Upon motion by Vice President Hurtado, the Board voted 3-0-1 (President Lazarus absent) to grant the appeal and deny the permit on the basis that the permit does not comply with San Francisco Public Works Code Article 27 (Ordinance No. 76-14).

SPEAKERS: Viola Yee, appellant; Pamela Tom, agent for appellant; Teddy Vriheas, agent for permit holder; Foster Johnson, attorney for permit holder; Carla Short, DPW.

PUBLIC COMMENT: Urbano Ezquiere spoke in support of appellant.

### (9) REHEARING REQUEST:

**Subject property at 70 Crestline Drive.** Letter from Kenda McIntosh, attorney for Shamus Naughten / Dolmen Property Group LLC, permit holder, requesting rehearing of Appeal No. 13-062, T.P.E.N.A vs. DBI, PDA, decided July 17, 2013. At that time, the Board voted 4-1 (Commissioner Fung dissented) to grant the appeal and overturn the permit on the following basis: (1) the project does create exceptional and extraordinary circumstances because it will not preserve and protect the character and stability of the Vista Francisco Development and it will not be an orderly and beneficial in-fill project in the Vista Francisco Development; (2) the project, if approved, will result in an inappropriate precedent or expectation for a similar in-fill project elsewhere in the Vista Francisco Development; and (3) the Board's authority pursuant to Article 1, Section 26 of the San Francisco Business and Tax Regulations Code to consider the project's effect on surrounding properties and residents. Appellant: Twin Peaks Eastside Neighborhood Alliance. Project: Permit to Erect a Building (4-story, 4-unit residential building with 1,420sf of ground floor area; BPA No. 2009/08/25/5545S. **Note: On Aug. 14, 2013, the Board held a public hearing on this rehearing request, and voted 5-0 to continue the matter to Call of Chair to await the outcome of the subdivision issue at DPW with possible appeal to the Board of Supervisors. Then, on Nov. 20, 2013, the Board voted to return the matter to Call of Chair pending further review of the subdivision issue by DPW and the Planning Dept.; additional briefing is allowed.**

ACTION: Upon motion by Vice President Hurtado, the Board voted 3-0-1 (President Lazarus absent) to deny the rehearing request.

SPEAKERS: Leonardo Zylberberg, agent for permit holder; Donald Bateman, agent for appellant Scott Sanchez, ZA.

PUBLIC COMMENT: None.

### (10) JURISDICTION REQUEST

**Subject property at 157 Randall Street.** Letter from John Clifford & Charlene Attard, requestors, asking that the Board take jurisdiction over BPA No. 2013/06/25/0447, which was issued by the Department of Building Inspection on April 25, 2014. The appeal period ended on May 12, 2014, and this jurisdiction request was filed at the Board office on August 26, 2014. Project: 28sf horizontal addition to 3<sup>rd</sup> floor; raise roof 8'10"; interior remodel of kitchen and miscellaneous improvements; construct deck on top of garage at 2<sup>nd</sup> floor; 3<sup>rd</sup> floor rear deck. Permit Holders: Maneesh Jain & Nadia Ramsaroop.

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ACTION: This matter was withdrawn by the requestors prior to hearing.

SPEAKERS: None.

PUBLIC COMMENT: None.

**(11) APPEAL NO. 05-002**

<p>GARY RAUGH, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL</p>	<p>2220-2222 Sacramento Street. Appealing the DENIAL on January 4, 2005, of an Alteration Permit (application associated with Variance Case No. 2004.0061V to reflect as-built conditions of garage door; to resolve NOV No. 200341797). APPLICATION NO. 2004/10/18/7116S. FOR HEARING TODAY. <b>Note: On June 8, 2005, the Board voted 4-1 (Commissioner Sugaya dissented) to reschedule this matter to Call of Chair so that the Certificate of Appropriateness process can take place at the LPAB and Planning Commission.</b></p>
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ACTION: Upon motion by Commissioner Honda, the Board voted 3-0-1 (President Lazarus absent) to deny the appeal and uphold the denial of the permit on the basis that the appellant was in violation of City directives.

SPEAKERS: Scott Sanchez, ZA; Joseph Duffy, DBI; appellant did not appear; permit holder did not appear.

PUBLIC COMMENT: None.

**ITEMS (12A), (12B) & (12C) SHALL BE HEARD TOGETHER:**

**(12A) APPEAL NO. 14-098**

<p>MARIA MARANGHI, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>1020 Filbert Street. Protesting the ISSUANCE on March 20, 2014, to Xelan Prop 1 LLC, of an 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.</p>
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**(12B) 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, of an 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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**(12C) 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, of a 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 3-0-1 (President Lazarus absent) to reschedule all three matters to November 5, 2014 at the request of the parties.

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

**PUBLIC COMMENT:** None.

**(13) APPEAL NO. 14-118**

DON TOY & ANDY CREAGER, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1957-1959 Beach Street. Appealing the ISSUANCE on June 17, 2014, of a 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). FOR HEARING TODAY.
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**ACTION:** Upon motion by Vice President Hurtado, the Board voted 3-0-1 (President Lazarus absent) to deny the appeal and uphold the Letter of Determination on the basis that there is no evidence that the Zoning Administrator erred or abused his discretion.

**SPEAKERS:** Appellants did not appear.

**PUBLIC COMMENT:** None.

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**(14) APPEAL NO. 14-126**

<p>CAROLE BROWN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>179 Hamerton Avenue. Protesting the ISSUANCE on June 26, 2014, to Scott Dylewski, of an Alteration Permit (new deck at rear of main level of existing house with exterior stair to the rear yard; new doors at the rear main level; replace windows "in-kind"; new lower living level; alter lower level to remodel existing bedroom and incorporate new hallway). APPLICATION NO. 2014/06/04/7453. FOR HEARING TODAY.</p>
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**ACTION:** Upon motion by Vice President Hurtado, the Board voted 3-0-1 (President Lazarus absent) to continue this matter to October 15, 2014 to allow the permit holder to submit revised plans and a written statement from the southern adjacent property owner agreeing to the construction of a required firewall.

**SPEAKERS:** Carole Brown, appellant; Julie Ask, agent for appellant; James Kaenje, agent for appellant; Scott Dylewski, permit holder; Shannon Leonard, agent for permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI.

**PUBLIC COMMENT:** None.

**ADJOURNMENT.**

There being no further business, Vice President Hurtado adjourned the meeting at 8:25 p.m.