

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, OCTOBER 9, 2013

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

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

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); John Kwong, Manager, Department of Public Works Bureau of Street Use and Mapping (DPW BSM); 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.

SPEAKERS: None.

PUBLIC COMMENT: None.

(2) COMMISSIONER COMMENTS & QUESTIONS:

SPEAKERS: Commissioner Fung announced that he will be absent from the October 30, 2013 Board meeting.

PUBLIC COMMENT: None.

(3) ADOPTION OF MINUTES:

Discussion and possible adoption of September 18, 2013 minutes.

ACTION: Upon motion by President Hwang, the Board voted 5-0 to adopt the September 18, 2013 minutes.

SPEAKERS: None.

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PUBLIC COMMENT: None.

(4) **ADDENDUM ITEMS:**

(4a) **JURISDICTION REQUEST:**

Subject property at 2652 Chestnut Street. Letter from Tracy Zill, attorney for Zack Rogers, requestor, asking that the Board take jurisdiction over BPA No. 2009/06/05/9880S, which was issued on Nov. 06, 2012; the appeal period ended on Nov. 21, 2012 and the jurisdiction request was filed at the Board office on Sept. 04, 2013. Permit Holder: Ronald Sires. Project: one story vertical addition with access to roof; expand garage; remodel rooms; change full bath to ½ bath at 2nd floor; new bathrooms, new bedrooms and master suite at 3rd floor. **Note:** On Jan. 09, 2013, in Appeal 12-144 filed by Richard and Denise Wall, the Board upheld this permit on the basis that the Planning Code § 311 notice had not expired and on a further basis that this permit was properly issued.

ACTION: Upon motion by Commissioner Hurtado, the Board voted 5-0 to deny the Jurisdiction Request.

SPEAKERS: Zack Rogers, requestor; Ronald Sires, permit holder; John Lau, agent for permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

(4b) **REHEARING REQUESTS:**

Subject property at 3166 – 16th Street. Letter from Jonathan Plotzker, appellant, requesting rehearing of Appeal Nos. 13-081/082, Plotzker vs. DBI, decided Aug. 21, 2013. At that time, the Board voted 3-2 (Vice President Lazarus and Commissioner Fung dissented) to grant both appeals and revoke both permits with a finding of negative effect on the surrounding businesses and community and on the basis of the Board's authority pursuant to Article 1, Section 26 of the San Francisco Business and Tax Regulations Code. Lacking the four votes needed to overturn a departmental action and with no further motion made, the permits were upheld by operation of law. Permit Holder: Jack Spade. Project, 1st permit: interior non-structural demolition of dropped ceiling, lighting, existing non-compliant restroom in vacant retail store; accessibility requirements will be addressed in subsequent tenant improvements per SFBC AB-017; BPA No. 2013/06/07/8955. Project, 2nd permit: interior non-structural renovation; new partitions, power lighting, mechanical system and new accessible restroom and dressing room; storefront to remain as is with repainting and minor repairs only; BPA No. 2013/06/24/0254.

ACTION: Upon motion by President Hwang, the Board voted 4-1 (Vice President Lazarus dissented) to grant the Rehearing Request and hold the rehearing on December 11, 2013.

SPEAKERS: Jefferson McCarley, agent for requestor; Phil Lesser, agent for permit holder; Melissa Xides, agent for permit holder; Scott Sanchez, ZA.

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PUBLIC COMMENT: Denise D'Anne, Roisin Isner, Deena Davenport, Leo Madrid, Alicia Gamez, Mike Alonzo, Gabriel Medina, Andy Blue, Jim Kelly, Alex Samayoa, Brett Lockspeiser, Oscar Grande, Amparo Vigil, Eric Arguello, Pía López, Rebekah Kouy-Ghadosh, Itala Portal, Armando Gustavo Gustillo, Jose Cellar and Jean Katz spoke in support of the requestor. Paul Stoll and Carmen Castillo spoke in support of the permit holder.

ITEMS (5A) AND (5B) SHALL BE HEARD TOGETHER:

(5A) APPEAL NO. 13-104

<p>CALA FOODS INC. dba "FOODS CO.", Appellant(s)</p> <p>vs.</p> <p>DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent</p>	<p>345 Williams Avenue. Protesting the ISSUANCE on August 02, 2013, to LaMark McCullough, Mobile Food Facility Permit (sale of breakfast sandwiches, mixed coffee, drinks, fried chicken, hamburgers, hotdogs, hot links, tacos, pizza rotisserie chicken, fish sticks, deli sandwiches, burritos, Philly cheese steak, rice, baked potato, cold beverages, teas, juices, salads, BBQ ribs, French fries, yogurt and bread). PERMIT NO. 12MFF-0010. FOR HEARING TODAY.</p>
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(5B) APPEAL NO. 13-106

<p>LAMARK MCCULLOUGH, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent</p>	<p>345 Williams Avenue. Appealing the CONDITIONS IMPOSED on August 02, 2013, on a Mobile Food Facility Permit (sale of breakfast sandwiches, mixed coffee, drinks, fried chicken, hamburgers, hotdogs, hot links, tacos, pizza rotisserie chicken, fish sticks, deli sandwiches, burritos, Philly cheese steak, rice, baked potato, cold beverages, teas, juices, salads, BBQ ribs, French fries, yogurt and bread). APPLICATION NO. 12MFFF-0010. FOR HEARING TODAY.</p>
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ACTION: Upon motion by President Hwang, the Board voted 5-0 to deny both appeals and requested that the Department of Public Works expedite any subsequent application, waive all fees possible, and work with the permit holder to find an additional location close to the current permitted location.

SPEAKERS: Megan Jennings, attorney for appellant (13-104); Jim Caldwell, agent for appellant (13-104); LaMark McCullough, permit holder and appellant (13-106); John Kwong, DPW BSM.

PUBLIC COMMENT: None.

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(6) APPEAL NO. 13-100

ROBERT D'HONDT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	23 Topaz Way. Protesting the ISSUANCE on July 31, 2013, to Jim & Elaine Kohn, Alteration Permit (obtain building permit to make repairs to front porch tile stairs and shingle siding on both sides; approx. 160sf of water damaged siding; to tile front porch in kind; less than 50% repair; comply with NOV No. 201314541). APPLICATION NO. 2013/07/31/3225. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to grant the appeal and condition the permit to limit the scope of work to 23 Topaz Way by deleting the reference on the permit to "both sides" and by reducing the area covered from 160sf to 80sf.

SPEAKERS: Stephen Williams, attorney for appellant; Jim Kohn, permit holder; Brian White, agent for permit holder; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

(7) APPEAL NO. 13-101

LAUREN STANDIG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4515 - 20th Street. Protesting the ISSUANCE on July 30, 2013, to Will Lavery, Alteration Permit (new stairs to roof; new stair penthouse and roof deck including glass guard rail 42" and 42" parapet). APPLICATION NO. 2010/11/03/4284"S". FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Hurtado, the Board voted 5-0 to deny the appeal and uphold the permit on the basis that the permit was property issued.

SPEAKERS: appellant did not appear; Will Lavery, permit holder; Yakuk Askew, agent for permit holder; Scott Sanchez, ZA.

PUBLIC COMMENT: None.

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(8) APPEAL NO. 13-102

MICHAEL LEAVITT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1815-1827 Stockton Street. Protesting the ISSUANCE on July 29, 2013, to 1815-1827 Stockton Street HOA, Alteration Permit (replace existing rear stairs with new ones). APPLICATION NO. 2013/07/18/2141. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Honda, the Board voted 4-0-1 (Commissioner Fung recused) to continue the matter to October 23, 2013 to allow the permit holder time to submit Code compliant revised plans.

SPEAKERS: Michael Leavitt, appellant; Joseph Butler, agent for permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

ITEMS (9A), (9B) AND (9C) SHALL BE HEARD TOGETHER:

(9A) APPEAL NO. 13-103

STEVEN GREENWALD & ROCHELLE ALPERT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	68 Presidio Avenue. Protesting the ISSUANCE on August 02, 2013, to Steve Minisini, Alteration Permit (consolidation of work previously approved on BPA Nos. 2011/10/14/6891, 2012/01/18/2486, 2012/03/23/6788, and 2012/11/20/4610; additional scope to include replacement in- kind of singular glazed windows with double glazed wood windows; reconfigure windows, enlarge windows; replace front stair in-kind with stone stair, exterior railing; replace fireplace; add rear yard fence; enlarge curb cut and other work). APPLICATION NO. 2013/03/22/2867. FOR HEARING TODAY.
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(9B) APPEAL NO. 13-113

<p>STEVEN GREENWALD & ROCHELLE ALPERT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>68 Presidio Avenue. Protesting the ISSUANCE on August 15, 2013, to Steve Minisini, Alteration Permit (expand existing roof deck; new metal guardrail at deck; relocate door to deck; new windows at family room; repair or replace existing fire escape; new fire pit and one-hour wall; this is a res-submittal of permit no. 2012/10/11/1876 due to +/- 13" high non-code compliant parapet and 10-day neighborhood notice not sent out by City Planning). APPLICATION NO. 2013/03/01/1348. FOR HEARING TODAY.</p>
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(9C) APPEAL NO. 13-121

<p>STEVEN GREENWALD & ROCHELLE ALPERT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent</p>	<p>68 Presidio Avenue. Protesting the ISSUANCE on August 30, 2013, to Steve Minisini, Alteration Permit (install new fire sprinkler system throughout the residence including new 2' fire service; total heads 62) at 68 Presidio Avenue. APPLICATION NO. 2013/08/30/5648. FOR HEARING TODAY.</p>
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ACTION: Upon motion by President Hwang, the Board voted 5-0 to deny Appeal Nos. 13-103 and 13-121, and uphold the permits on the basis that they are Code complaint and were properly issued. The Board also voted 5-0 to continue Appeal No. 13-113 to November 13, 2013, to allow the Department of Building Inspection to review the property line and required second means of egress. No additional submittals are allowed.

SPEAKERS: Scott Emblidge, attorney for appellants; Marco Ballard, agent for appellants; Pat Buscovich, agent for appellants; Rochelle Alpert, appellant; Steven Greenwald, appellant; Brian Soriano, attorney for permit holder; Dan Phipps, agent for permit holder; Steve Minisini, permit holder; Scott Sanchez, ZA.

PUBLIC COMMENT: David Simpson spoke in support of the appellants.

ADJOURNMENT.

There being no further business, President Hwang adjourned the meeting at 11:00 p.m.