BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JANUARY 16, 2013

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

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

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); Janine Young, Environmental Health Section, Department of Public Health (DPH); Sherri Sokeland Kaiser, Deputy City Attorney on behalf of DPH; Ed Walsh, Senior Environmental Health Inspector, DPH; Cynthia Goldstein, Executive Director; Victor Pacheco, Legal Assistant.

ABSENT: Commissioner 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.

SPEAKERS: None.

(2) **ELECTION OF OFFICERS:**

ACTION: Upon motion by Vice President Fung, the Board voted 4-0-1 (Commissioner Hurtado absent) to elevate Commissioner Lazarus to the office of Vice President. Upon further motion by Commissioner Fung, the Board voted 4-0-1 (Commissioner Hurtado absent) to elect President Hwang to another term as President.

SPEAKERS: None.

PUBLIC COMMENT: None.

(3) **COMMISSIONER COMMENTS & QUESTIONS:**
SPEAKERS: President Hwang announced that she was ill, stated she would stay at the meeting for as long as she was able, and asked that matters be heard as expeditiously as possible.

PUBLIC COMMENT: None.

(4) **ADOPTION OF MINUTES:**

Discussion and possible adoption of the January 09, 2013 minutes.

ACTION: Upon motion by Vice President Lazarus, the Board voted 4-0-1 (Commissioner Hurtado absent) to adopt the January 09, 2013 minutes.

PUBLIC COMMENT: None.

(5) **ADDENDUM ITEMS:**

(5a) **JURISDICTION REQUESTS:**

Subject property at 404 Jersey Street. Letter from Bill Pashelinsky, requestor, asking that the Board take jurisdiction over the denial on Aug. 14, 2012 of Rear Yard Variance (Case No. 2012.0173V) and the denial on Sept. 05, 2012 of BPA No. 2011/12/15/0758. The appeal periods ended on Aug. 24, 2012 and Sept. 20, 2012, respectively, and the jurisdiction requests were filed at the Board office on Oct. 31, 2012. **Rear Yard Variance:** to construct a 10-foot wide curb cut and off-street parking pad located within an open area which qualifies as the required rear yard. **Building Permit Application:** convert existing concrete slab into parking pad with new gate and curb cut.

ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Commissioner Hurtado absent) to grant the jurisdiction requests.

SPEAKERS: Bill Pashelinsky, requestor; Bart Murphy, subject property owner; Scott Sanchez, ZA.

PUBLIC COMMENT: None.
ITEMS (6A), (6B), (6C) & (6D) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 12-105**

| JOSH BLEECHER SNYDER, Appellant(s) | 530 Sanchez Street. Protesting the issuance on August 20, 2012, to Brendan Fox, of a Permit to Demolish a Building (two-story, single-family dwelling with 1,083sf of ground floor area). APPLICATION NO. 2005/05/03/1416. PUBLIC HEARINGS HELD ON OCT. 17, 2012 AND DECEMBER 12, 2012. FOR FURTHER CONSIDERATION TODAY. Note: Matters continued to allow time for the permit holder to submit Code compliant revised plans. |
| vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL |

(6B) **APPEAL NO. 12-106**

| JOSH BLEECHER SNYDER, Appellant(s) | 530 Sanchez Street. Protesting the issuance on August 20, 2012, to Brendan Fox, of a Permit to Erect a Building (four-story, two-unit building with 1,413sf of ground floor area). APPLICATION NO. 2005/05/03/1415S. SEE NOTE IN ITEM 6A. |
| vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL |

(6C) **APPEAL NO. 12-107**

| DENNIS STEWART, Appellant(s) | 530 Sanchez Street. Protesting the issuance on August 20, 2012, to Brendan Fox, of a Permit to Demolish a Building (two-story, single-family dwelling with 1,083sf of ground floor area). APPLICATION NO. 2005/05/03/1416. SEE NOTE IN ITEM 6A. |
| vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL |

(6D) **APPEAL NO. 12-108**

| DENNIS STEWART Appellant(s) | 530 Sanchez Street. Protesting the issuance on August 20, 2012, to Brendan Fox, of a Permit to Erect a Building (four-story, two-unit building with 1,413sf of ground floor area). APPLICATION NO. 2005/05/03/1415S. SEE NOTE IN ITEM 6A. |
| vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL |

**ACTION:** Upon motion by Commissioner Fung, the Board voted 4-0-1 (Commissioner Hurtado absent) to grant the appeals, uphold the demolition permit, and uphold the permit to erect a building on the condition that it be revised to reflect the plans submitted by the permit holder to the Board on January 10, 2013.
SPEAKERS: Lucien Blazej, agent for permit holder; Dennis Stewart, appellant; Scott Sanchez, ZA.

PUBLIC COMMENT: None.

(7) **APPEAL NO. 12-141**

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<th>GRACE WU, Appellant(s)</th>
<th>vs.</th>
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<td>DEPT. OF BUILDING INSPECTION, Respondent</td>
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42 Lapham Way.  
Appealing the imposition of penalty on Nov. 13, 2012, for construction work done without a permit.  
APPLICATION NO. 2012/11/13/4113.  
FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Commissioner Hurtado absent) to grant the appeal and reduce the penalty to two-times the permit fee.

SPEAKERS: Grace Wu, appellant; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

(8) **APPEAL NO. 12-145**

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<th>ABOLFATH HOSSEINIOUM, Appellant(s)</th>
<th>vs.</th>
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965 Mission Street.  
Appealing the imposition of penalty on Nov. 06, 2012, for construction work done without a permit.  
APPLICATION NO. 2012/11/05/3563.  
FOR HEARING TODAY.

ACTION: Upon motion by President Hwang, the Board voted 4-0-1 (Commissioner Hurtado absent) to reschedule this matter to February 13, 2013 at the request of the appellant.

SPEAKERS: None.

PUBLIC COMMENT: None.

(9) **APPEAL NO. 12-101**

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<th>SHUMEI FANG dba “CEO HEALTH CLUB INC.”, Appellant(s)</th>
<th>vs.</th>
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130 Bush Street #601.  
Appealing a ninety (90) day suspension issued on August 14, 2012, of a Massage Establishment Permit.  
FOR HEARING TODAY.
ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Commissioner Hurtado absent) to grant the appeal and reduce the suspension to sixty (60) days based on questions raised by the appellant regarding the DPH Director’s Hearing process.

SPEAKERS: Paul Horcher, attorney for appellant; Sherri Sokeland Kaiser, attorney for DPH; Ed Walsh, DPH.

PUBLIC COMMENT: None.

(10) APPEAL NO. 12-104

BASHIR SHAHIN dba “MARRAKECH MOROCCAN RESTAURANT”, Appellant(s) vs.

DEPT. OF PUBLIC HEALTH, Respondent

419 O’Farrell Street.
Appealing the thirty (30) day suspension of Tobacco Sales Permit, imposed on August 15, 2012. Reason for suspension: violation of State law and the San Francisco Health Code which prohibit the indoor smoking of tobacco products.
DIRECTOR’S CASE NO. SMK12-09.
FOR HEARING TODAY.

ACTION: Upon motion by President Hwang, the Board voted 4-0-1 (Commissioner Hurtado absent) to deny the appeal and uphold the suspension on the basis of the factual record provided.

SPEAKERS: Bashir Shahin, appellant; Janine Young, DPH.

PUBLIC COMMENT: None.

(11) APPEAL NO. 12-142

2nd STREET MERCHANTS, Appellant(s) vs.

DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent

150 California Street & 84 – 2nd Street.
Protesting the issuance on Sept. 28, 2012, to Expresso Subito LLC, Mobile Food Facility Permit (sale of espresso drinks).
PERMIT NO. 11MFF-0167.
FOR REHEARING TODAY.
Public Hearing held and closed on Nov. 14, 2012. At that time a motion to uphold the subject Mobile Food Facility (MFF) permit did not muster sufficient votes to pass and the permit was upheld by operation of law. On December 12, 2012 the Board voted 5-0 to grant the appellant’s rehearing request and to set the rehearing for January 16, 2013.
ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Commissioner Hurtado absent) to continue the appeal to March 20, 2013 to allow Commissioner Hurtado to participate in the vote.

SPEAKERS: Charlie Yu, attorney for appellant; Alison Rowe, agent for appellant; Jim Patrick, agent for appellant; Maritssa Lopez, agent for appellant; Deb Sellers, agent for appellant; Gary Goldstein, permit holder; Deborah Kartiganer, attorney for permit holder; John Kwong, DPW BSM.


(12) APPEAL NO. 12-142

PAAWAN KOTHARI
dba “THE CHAI CART”, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS
BUREAU OF STREET-USE & MAPPING,
Respondent

79 New Montgomery Street.
Appealing the denial on Nov. 06, 2012, of Mobile Food Facility Permit (sale of hot Indian chai tea).
APPLICATION NO. 12MFF-0083.
FOR HEARING TODAY.

ACTION: Upon motion by President Hwang, the Board voted 4-0-1 (Commissioner Hurtado absent) to deny the appeal and uphold the denial of the permit on the basis of the department’s analysis.

SPEAKERS: The appellant did not appear; John Kwong, DPW BSM.

PUBLIC COMMENT: Alison Rowe and Jim Patrick spoke in support of the department.

ADJOURNMENT.
There being no further business, President Hwang adjourned the meeting at 8:30 p.m.