

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, MARCH 20, 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); Derek Smith, Health Program Coordinator, Department of Public Health (DPH); 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: Jim Patrick, Alison Rowe, Charlie Yu, Keith Milne, Karen Smith and Monesh Josan spoke in support of the appellant in Appeal No.12-126. Gary Goldstein, Beverly Goldstein and Deborah Kartiganer spoke in support of the permit holder in Appeal No.12-126.

Patricia Vaughey spoke on the practice of changing rental units into single family homes and on the elimination of a second means of egress. She also spoke about issues of formula retail that she anticipates will be coming to the Board in the future.

(2) COMMISSIONER COMMENTS & QUESTIONS

SPEAKERS: None.

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the March 6, 2013 minutes.

ACTION: Upon motion by Vice President Lazarus, the Board voted 5-0 to adopt the March 6, 2013 minutes.

SPEAKERS: None.

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PUBLIC COMMENT: None.

(4) SPECIAL ITEM

Informational presentation by the Department of Public Health Tobacco Free Project on the City's efforts to curb the sale of tobacco to minors.

SPEAKERS: Derek Smith, DPH, spoke to the Board about the efforts of the Tobacco Free Project to prevent the sale of tobacco to minors and the impact of tobacco use by minors.

PUBLIC COMMENT: None.

(5) ADDENDUM ITEMS

(5a) REHEARING REQUEST

Subject property at 264 Dore Street. Letter from Stephen Williams, attorney for 465 – 10th Street Condominium HOA, appellant, requesting rehearing of Appeal No. 12-151, 465 – 10th Street Condo HOA vs. DBI, PDA, decided Feb. 13, 2013. At that time, the Board voted 4-0-1 (Vice President Lazarus absent) to deny the appeal and uphold the permit on the basis of the Zoning Administrator's testimony at hearing. **Permit Holder:** Daniel Kennedy. **Project:** erect a two-story, auto-repair garage building with 1,997.5sf of ground floor area; BPA No. 2012/01/27/3062S.

This matter was withdrawn by the appellant prior to hearing and was not heard.

(6) APPEAL NO. 12-126

<p>2ND STREET MERCHANTS, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent</p>	<p>150 California Street & 84 – 2nd Street. Protesting the issuance on Sept. 28, 2012, to Espresso Subito LLC, Mobile Food Facility Permit (sale of espresso drinks). PERMIT NO. 11MFF-0167. REHEARING HELD AND CLOSED ON JANUARY 16, 2013. FOR FURTHER CONSIDERATION TODAY. Note: matter was continued to allow Commissioner Hurtado to participate in the final vote.</p>
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ACTION: Upon motion by Commissioner Hurtado, the Board voted 2-3 (Vice President Lazarus, Commissioner Fung and Commissioner Honda dissented) to uphold the permit on the basis that the notice given was adequate, that there is no like food within the required radius and that DPW properly exercised its discretion in issuing the permit. Lacking the three votes needed to pass, the motion failed. There being no further motion made, the permit was upheld by operation of law.

SPEAKERS: None.

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PUBLIC COMMENT: None.

(7) APPEAL NO. 13-001

GERALDINE ROSEN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1041 Shrader Street. Protesting the issuance on Dec. 20, 2012, to Laura & Dave Brown, Permit to Alter a Building (add crickets to rear of house for proper roof drainage). APPLICATION NO. 2012/12/20/6664. FOR HEARING TODAY.
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ACTION: This matter was withdrawn by the appellant at the hearing and was not heard.

SPEAKERS: Ryan Patterson, attorney for appellant.

PUBLIC COMMENT: None.

(8) APPEAL NO. 12-159

STEPHEN WILLIAMS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	125 Crown Terrace. Protesting the issuance on Nov. 28, 2012, to Crown Terrace LLC, Permit to Alter a Building (horizontal and vertical addition). APPLICATION NO. 2011/10/06/6315S. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the board voted 3-2 (President Hwang and Commissioner Hurtado dissented) to grant the appeal and uphold the permit on the basis that it is Code compliant.

SPEAKERS: Stephen Williams, appellant; Pat Buscovich, agent for appellant; Lucian Blazej, agent for permit holder; Rodrigo Santos, agent for permit holder; Noe Murphy, agent for permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: Brian Stanfeubiel, Nicole Paiement, Robert Harris, Annie Rosenbloom, Terry Woods, Margaret Verges, Dee Cunningham, Jake McGoldrick and Brenda Yost spoke in support of the appellant. Henry Karnilowicz, John Keogan and John Holtz spoke in support of the permit holder.

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(9) APPEAL NO. 13-004

MIYO OTA dba "MIO INC.", Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2130 Fillmore Street. Protesting the issuance on Jan. 07, 2013, to Alan Tan, Permit to Alter a Building (update concrete foundation; replace water damaged studs; 20% upgrade CDA at entrance door opener). APPLICATION NO. 2013/01/04/7241. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to deny the appeal and uphold the permit on the basis that it is Code compliant.

SPEAKERS: Miyo Ota, appellant; Christina Tan, agent for permit holder; John Kevlin, agent for permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: Caryl Ito, Beverly Weinkauf, Henry Karnilowicz, Penny Nakatsu, Paul Wermer and Thomas Reynolds spoke in support of the appellant.

(10) APPEAL NO. 13-013

PETER LINN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1325 Portola Drive. Protesting the issuance on Jan. 30, 2013, to Sofia New, Permit to Alter a Building (comply with NOV No. 201299633; revision to BPA No. 2006/09/06/1483; to document accurate building height relationship between the proposed elevation of 1325 Portola Drive and the neighboring building to the West). APPLICATION NO. 2012/03/27/6917. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to deny the appeal and uphold the permit on the basis that it conforms to the approved plans with respect to the overall building height.

SPEAKERS: Peter Linn, appellant; Sarah New, agent for permit holder; Scott Sanchez, ZA.

PUBLIC COMMENT: Mark Barbagelata spoke in support of the appellant.

ADJOURNMENT.

There being no further business, President Hwang adjourned the meeting at 9:20 p.m.