

## **BOARD OF APPEALS**

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

#### **MEETING MINUTES - WEDNESDAY, FEBRUARY 13, 2013**

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

PRESENT: President Chris Hwang, 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); Dan Sider, Assistant 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); Jarvis Murray, Municipal Transportation Agency Division of Taxis and Accessible Services (MTA DTAS); Captain Mark Osuna, San Francisco Police Department Permit Bureau (SFPD); Cynthia Goldstein, Executive Director; Victor Pacheco, Legal Assistant.

ABSENT: Vice 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.

SPEAKERS: None.

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

SPEAKERS: Commissioner Fung announced that he will be absent from the March 6, 2013 meeting.

PUBLIC COMMENT: None.

#### **(3) ADOPTION OF MINUTES:**

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Discussion and possible adoption of the January 16, 2013 minutes.

ACTION: Upon motion by President Hwang, the Board voted 4-0-1 (Vice President Lazarus absent) to adopt the January 16, 2013 minutes.

SPEAKERS: None.

PUBLIC COMMENT: None.

(4) **ADDENDUM ITEMS:**

(4a) **JURISDICTION REQUEST:**

**Subject property at 669 San Jose Avenue.** Letter from Vassiliki Moulas, requestor, asking that the Board take jurisdiction over BPA No. 2012/08/30/8686, which was issued on August 30, 2012. The appeal period ended on Sept. 04, 2012, and the jurisdiction request was filed at the Board office on Jan. 17, 2013. Permit Holder: Vassiliki Moulas. Project: comply with NOV No. 201077532; remove illegal unit at ground floor rear garage

ACTION: Upon motion by Commissioner Hwang, the Board voted 4-0-1 (Vice President Lazarus absent) to grant the jurisdiction request.

SPEAKERS: Vassiliki Moulas, requestor; Joseph Duffy, DBI; Scott Sanchez, ZA.

PUBLIC COMMENT: None.

(4b) **REHEARING REQUEST:**

**Subject property at 800 Brotherhood Way.** Letter from Quentin Kopp, co-appellant, requesting rehearing of Appeal No. 12-140, Kopp, L.A.I.C. et al. vs. ZA, decided Jan. 09, 2013. At that time, the Board voted 4-0-1 (President Hwang absent) to uphold the subject Letter of Determination on the basis that the Zoning Administrator did not err or abuse his discretion. Determination Holder: RCS Brotherhood Way LLC. LOD: that the Conditional Use authorization under Planning Commission Motion No. 17022 for a residential Planned Unit Development with up to 182 dwelling units at the subject property, which was approved on May 19, 2005, is still valid.

ACTION: Upon motion by Commissioner Hwang, the Board voted 4-0-1 (Vice President Lazarus absent) to deny the request.

SPEAKERS: Quentin Kopp, requestor; Steve Vettel, attorney for determination holder; Scott Sanchez, ZA.

PUBLIC COMMENT: Terence Faulkner, Julian Lagos and Cathy Lentz spoke in support of the requestors.

**(4c) REHEARING REQUEST:**

**Subject property at 79 New Montgomery Street.** Letter from Paawan Kothari, appellant, requesting rehearing of Appeal No. 12-142, "The Chai Cart" vs. DPW BSM, decided Jan. 16, 2013. At that time, the Board voted 4-0-1 (Commissioner Hurtado absent) to uphold the denial of the subject Mobile Food Facility Permit on the basis of the DPW's analysis. Project: sale of hot Indian chai tea; Application No. 12MFF-0083.

**ACTION:** Upon motion by Commissioner Fung, the Board voted 4-0-1 (Vice President Lazarus absent) to grant the request and rehear the appeal on April 10, 2013.

**SPEAKERS:** Paawan Kothari, requestor; John Kwong, DPW BSM.

**PUBLIC COMMENT:** None.

**(4d) JURISDICTION REQUESTS:**

**Subject property at 68 Presidio Avenue.** Letter from Steven Greenwald & Rochelle Alpert, requestors, asking that the Board take jurisdiction over the issuance on October 28, 2011, March 5, 2012 and April 12, 2012 of BPA Nos. 2011/10/14/6891, 2012/01/18/2486 and 2012/03/23/6788, respectively. The appeal periods ended on November 14, 2011, March 20, 2012 and April 27, 2012, respectively, and the jurisdiction requests were filed at the Board office on December 21, 2012. **Project, Permit #1:** remove and replace existing sheetrock at all floors; removal to be limited to 50% of each floor and shall not trigger substantial change per SFBC 3404.7; replace existing sheetrock with 5/8" type x property lines; no structural work. **Project, Permit #2:** remodel kitchen and four existing bathrooms; add one bathroom; provide new windows and miscellaneous interior improvements and new elevator. **Project, Permit #3:** revision to permit #2012/01/18/2486, expand existing garage and extend stair and elevator to garage level; add 1 bedroom and bath.

**ACTION:** Upon motion by President Hwang, the Board voted 2-2-1 (Commissioners Fung and Honda dissented, Vice President Lazarus absent) to grant the requests on the basis of the City's failure to request plans that sufficiently articulate the project. Lacking the four votes needed to pass, the motion failed. Upon further motion by President Hwang the Board voted 2-2-1 (Commissioners Fung and Honda dissented, Vice President Lazarus absent) to continue the requests to March 20, 2013. Lacking the three votes needed to pass, the motion failed. There being no further motion made, the requests were denied by operation of law.

**SPEAKERS:** Alice Barkley, attorney for requestors; Denis Shanagher, attorney for requestors; Brian Soriano, attorney for permit holders, Scott Sanchez, ZA; Joseph Duffy, DBI.

**PUBLIC COMMENT:** None.

**(5) APPEAL NO. 12-146**

MARY AMIL dba "SAN FRANCISCO PALM READER", Appellant(s) vs.  POLICE DEPARTMENT, Respondent	247 Columbus Avenue. Appealing the denial on Nov. 15, 2012, of a Fortuneteller Permit. FOR HEARING TODAY.
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**ACTION:** Upon motion by Commissioner Hurtado, the Board voted 4-0-1 (Vice President Lazarus absent) to grant the appeal, overturn the department and issue the permit on the basis that the medical marijuana identification card issued by the State of California satisfies the identification requirement of Police Code §1304.

**SPEAKERS:** Barry Fisher, attorney for appellant; Captain Mark Osuna, SFPD.

**PUBLIC COMMENT:** Aaron Peskin spoke in support of the appellant.

**(6) APPEAL NO. 12-157**

MARIA YUHAS, Appellant vs.  MUNICIPAL TRANSPORTATION AGENCY, DIVISION OF TAXIS & ACCESSIBLE SERVICES, Respondent	Appealing the imposition on November 23, 2012, of a ninety (90) day suspension on Ramp Taxi Medallion No. 9038. FOR HEARING TODAY.
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**ACTION:** Upon motion by Commissioner Fung, the Board voted 4-0-1 (Vice President Lazarus absent) to grant the appeal and reduce the suspension to 45 days, on the basis stated in the MTA brief.

**SPEAKERS:** Jacob Mayzel, agent for appellant; Jarvis Murray, MTA DTAS.

**PUBLIC COMMENT:** None.

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

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ABOLFATH HOSSEINIOUM, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent	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.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Vice President Lazarus absent) to grant the appeal and reduce the penalty to five (5) times the permit fee.

SPEAKERS: Abolfath Hosseinium, appellant; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

**(8) APPEAL NO. 12-151**

465 – 10 <sup>TH</sup> STREET CONDOMINIUM HOA, Appellant vs.  DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	264 Dore Street. Protesting the issuance on Nov. 19, 2012, to Daniel Kennedy, Permit to Erect a Building (two-story, auto-repair garage building with 1,997.5sf of ground floor area). APPLICATION NO. 2012/01/27/3062S. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Honda, 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 the hearing.

SPEAKERS: Steven Williams, attorney for appellant; Nicholas Palter, agent for permit holder; Daniel Kennedy, permit holder; Scott Sanchez, ZA.

PUBLIC COMMENT: Adam Holcomb spoke in support of the appellant.

**(9) APPEAL NO. V12-154**

DAVID CAO, Appellant vs.  ZONING ADMINISTRATOR, Respondent	209 Prentiss Street and 1201 Cortland Street. Appealing the conditions placed on Lot Area, Rear Yard, Mass Reduction and Parking Variances, which were granted on November 28, 2012 (adjust existing lot line and construct new single-family dwelling on resulting new vacant lot). VARIANCE CASE NO. 2011.0793V. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Vice President Lazarus absent) to deny the appeal and uphold the Zoning Administrator on the basis that the Mass Reduction calculations are correct and no hardship exists.

SPEAKERS: Winnie Tam, agent for the appellant; Dan Sider, ZA.

PUBLIC COMMENT: None.

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

**(10a) APPEAL NO. 12-155**

<p>STEVEN GREENWALD &amp; ROCHELLE ALPERT, Appellants vs.  DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>68 Presidio Avenue. Protesting the issuance on November 20, 2012, to Jennifer Chow and Steve Minisini, Permit to Alter a Building (revision to BPA No. 201201182486; expand existing roof terrace; new window at top floor family room #2; replace existing single glazed windows with new wood double glazed windows; repair stucco with integral colored stucco). APPLICATION NO. 2012/10/11/1876. FOR HEARING TODAY.</p>
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**(10b) APPEAL NO. 12-156**

<p>STEVEN GREENWALD &amp; ROCHELLE ALPERT, Appellants vs.  DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>68 Presidio Avenue. Protesting the issuance on November 26, 2012, to Jennifer Chow and Steve Minisini, Permit to Alter a Building (revision to BPA No. 201201182486; remove existing walls at 2<sup>nd</sup> floor and new roofing). APPLICATION NO. 2012/11/20/4610. FOR HEARING TODAY.</p>
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Vice President Lazarus absent) to continue Appeal No. 12-155 to February 20, 2013, to allow time for the submittal of revised plans, and to allow DBI to accept a new permit application. Appeal No. 12-156 was withdrawn at hearing.

SPEAKERS: Scott Sanchez, ZA; Alice Barkley, attorney for appellants; Brian Soriano, attorney for permit holders.

PUBLIC COMMENT: None.

(11) **ADOPTION OF BUDGET:**

Discussion and possible adoption of the departmental budget for fiscal years 2013-2014 and 2014-2015.
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ACTION: Upon motion by President Hwang, the Board voted 4-0-1 (Vice President Lazarus absent) to adopt the fiscal year 2013-2014 and fiscal year 2014-2015 budget proposals.

SPEAKERS: Executive Director Goldstein provided the Board with an update on the current year budget and presented budget proposals for the next two fiscal years.

PUBLIC COMMENT: None.

**ADJOURNMENT.**

There being no further business, President Hwang adjourned the meeting at 10:55 p.m.