

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JUNE 19, 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 and Commissioner Darryl Honda.

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); Carla Short, Urban Forester, Department of Public Works, Bureau of Urban Forestry (DPW BUF); Lieutenant Mark Osuna, Permit Bureau, San Francisco Police Department (SFPD); Captain Curtis Lum, SFPD; Cammy Blackstone, Deputy Director, Entertainment Commission (EC); Howard Lazar, Program Director, Arts Commission (AC); 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.

PUBLIC COMMENT: None

(2) COMMISSIONER COMMENTS & QUESTIONS:

SPEAKERS: None.

(3) ADOPTION OF MINUTES:

Discussion and possible adoption of the June 05, 2013 minutes.

ACTION: Upon motion by President Hwang, the Board voted 4-0-1 (Commissioner Hurtado absent) to adopt the June 5, 2013 minutes.

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SPEAKERS: None.

PUBLIC COMMENT: None

(4) **ADDENDUM ITEMS:**

(4a) **REHEARING REQUEST:**

Subject property at 611 Buena Vista West Avenue. Letter from Susan Brandt-Hawley, attorney for Matthew & Kristine Leffers, appellants, requesting rehearing of Appeal No. 12-171, decided on May 15, 2013. At that time, the Board voted 3-2 to uphold the permit on condition that there be further setbacks at the front and back of the addition; four votes being required to overturn or modify any departmental action under the City Charter, the permit was upheld as is with no new conditions. Permit Holder: Martin Roscheisen. Project: one-story vertical addition to existing two-story residence; roof of 3rd story addition will include green roof; project will have a basement addition; BPA No. 2011/05/04/5332S.

ACTION: Upon motion by President Hwang, the Board voted 2-2-1 (Vice President Lazarus and Commissioner Fung dissented; Commissioner Hurtado absent) to grant the request. Lacking the four votes needed to pass, the motion failed. With no further motion made, the request was denied by operation of law.

SPEAKERS: Susan Brandt-Hawley, attorney for requestor; Samantha Senn, agent for requestor; Anna Shimko, attorney for permit holder; Stephanie Kiriakopolos, agent for permit holder.

PUBLIC COMMENT: Tim Stewart, Dan Leibsohn, Dona Crowder and Sue Rugtiv spoke in support of the appellants.

(4b) **JURISDICTION REQUESTS:**

Subject property at 353-355-357-359 San Jose Avenue. Letter from Marolyn Allen & Thomas Church, requestors, asking that the Board take jurisdiction over BPA Nos. 2007/12/12/0282 and 2007/12/12/0285, which were both issued on April 24, 2012. The appeal periods ended on May 09, 2013, and the jurisdiction requests were filed at the Board office on May 29, 2013. Permit Holder: Adil Shaikh. Project, 1st permit: demolition of one-story, single-family dwelling. Project, 2nd permit: construction of four-story building with four-dwelling units.

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

SPEAKERS: Tom Church, requestor; Adil Shaikh, permit holder; David Foran, attorney for permit holder; Scott Sanchez, ZA.

PUBLIC COMMENT: None.

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(4c) ADOPTION OF FINDINGS:

Subject property at 2118-2128 Fillmore Street. Discussion and possible adoption of findings for Appeal No. 13-030, Mio Inc. vs. DBI, PDA, decided May 15, 2013. At that time, the Board voted 4-1 to overturn the permit with adoption of findings at a later time, on the basis that this permit was not validly issued, that the determination of formula retail use should be reconsidered, and that the one-year bar against re-application would not apply. Permit Holder: Monique Ramos. Project: tenant improvement remodel of existing retail space within existing mixed-use, multi-tenant building; renovation of ground level storefront façade for new retail establishment; no structural work; BPA No. 2013/03/01/1323.

ACTION: Upon motion by Commissioner Fung, the Board voted 3-1-1 (Vice President Lazarus dissented and Commissioner Hurtado absent) to adopt the findings.

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

PUBLIC COMMENT: Thomas Reynolds spoke in support of the appellant.

(5) APPEAL NO. 13-056

WALTER HAAS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1 Spruce Street. Protesting the issuance on April 25, 2013, to John Maniscalco & Mary Tesluk, Permit to Alter a Building (interior remodel and horizontal addition at rear on 1 st and 2 nd stories). APPLICATION NO. 2012/02/23/4708S. FOR HEARING TODAY.
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ACTION: Upon motion by President Hwang, the Board voted 4-0-1 (Commissioner Hurtado absent) to grant the appeal and uphold the permit on the condition that it be revised to reflect the plans dated June 13, 2013, on the basis of the agreement of the parties.

SPEAKERS: Scott Emblidge, attorney for appellant; John Maniscalco, permit holder.

PUBLIC COMMENT: None.

(6) APPEAL NO. 13-049

JACQUELINE HARRIS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	744 Carolina Street. Protesting the issuance on April 19, 2013, to William Wiebe, Permit to Alter a Building (remove cooking facilities [free standing gas stove/oven] to re-establish building as single-family dwelling as authorized by DBI; see attached floor plan). APPLICATION NO. 2013/04/19/5010. FOR HEARING TODAY.
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ACTION: Withdrawn prior to hearing.

(7) APPEAL NO. 13-033

PAULA DATESH, Appellant(s) vs. ARTS COMMISSION, Respondent	Appealing the denial / non-renewal on March 21, 2013 of Street Artists Certificate. CERTIFICATE NO. 8663. FOR HEARING TODAY.
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ACTION: Upon motion by President Hwang, the Board voted 4-0-1 (Commissioner Hurtado absent) to grant the appeal, overturn the department and issue the permit on the basis that insufficient evidence was presented to support the denial.

SPEAKERS: Paula Datesh, appellant; Howard Lazar, AC.

PUBLIC COMMENT: Ray Hartz spoke in support of the appellant; John Tunui and John Nboli spoke in support of the department.

(8) APPEAL NO. 13-052

GERALD & DALE SULLIVAN, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	Eugenia Street frontage of property at 201 Bonview Street. Protesting the issuance on April 19, 2013 of an Order to approve removal of one smaller tree, and deny removal of one larger tree. ORDER NO. 181206. FOR HEARING TODAY.
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ACTION: Upon motion by President Hwang, the Board voted 4-0-1 (Commissioner Hurtado absent) to continue this matter to July 17, 2013 to allow Commissioner Hurtado to participate in the final vote.

SPEAKERS: Gerald Sullivan, appellant; Carla Short, DPW BUF.

PUBLIC COMMENT: None.

(9) APPEAL NO. 13-048

WEST PORTAL MERCHANTS ASSOCIATION, Appellant(s) vs. POLICE DEPARTMENT, Respondent	162 West Portal Avenue. Protesting the issuance April 11, 2013, to Bay Area Gold & Silver Buyers LLC, Second Hand Dealer Permit (buy precious metals including gold, silver, platinum, palladium, scrap jewelry, coins and bullion). PERMIT NO. 143581. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Commissioner Hurtado absent) to grant the appeal, overturn the department and revoke the permit on the basis that there was defective notice at the time of issuance.

SPEAKERS: Lieutenant Mark Osuna, SFPD; Captain Curtis Lum, SFPD; Dan Kramer, agent for appellant. The permit holder did not appear.

PUBLIC COMMENT: Carolyn Johnston, Arthur Perkins, Emmett Miller, Avrum Shepard, Craig Schiller and Stacy Laurence spoke in support of the appellant.

(10) APPEAL NO. 13-063

JASON PERKINS dba "BRICK AND MORTAR", Appellant(s) vs. ENTERTAINMENT COMMISSION, Respondent	1710 Mission Street. Appealing the approval on May 21, 2013, of additional conditions against an existing Place of Entertainment Permit. PERMIT NO. EC-1052. FOR HEARING TODAY.
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ACTION: Upon motion by President Hwang, the Board voted 4-0-1 (Commissioner Hurtado absent) to deny the appeal and uphold the department on the basis of the evidence submitted in the record.

SPEAKERS: Jason Perkins, appellant; Cammy Blackstone, EC.

PUBLIC COMMENT: Tim Dietz, Jim Gourgoutis, Lex Dietz, Dawn Holliday, Terrance Alan, Mark Rennie and Stefano Cassolato spoke in support of the department.

ADJOURNMENT.

There being no further business, President Hwang adjourned the meeting at 9:30 p.m.