

# **BOARD OF APPEALS**

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

### **MEETING MINUTES - WEDNESDAY, APRIL 10, 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); Nick Elsner, Department of Public Works, Bureau of Street-Use and Mapping (DPW BSM); Larry Kessler, Department of Public Health (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.

PUBLIC COMMENT: None.

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

SPEAKERS: Vice President Lazarus and Commissioner Honda both announced they would be absent from the April 17, 2013 meeting. President Hwang announced that the April 17, 2013 meeting will be canceled due to the lack of available Board members.

PUBLIC COMMENT: None.

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

Discussion and possible adoption of the March 20, 2013 minutes.

ACTION: Upon motion by President Hwang, the Board voted 4-0-1 (Commissioner Hurtado absent) to adopt the March 20, 2013 minutes.

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SPEAKERS: None.

PUBLIC COMMENT: None.

**(4) ADDENDUM ITEMS**

**(4a) REHEARING REQUEST**

**Subject property at 1244 Treat Avenue.** Letter from Janet Sum, agent for Dong Hua Su, appellant, requesting rehearing of Appeal No. 12-170, Su vs. DBI, PDA, decided March 06, 2013. At that time, the Board voted 4-0 to uphold the subject permit on the basis that the permit was properly issued. Permit Holder: Peggy Mangot. Project: replace foundations; create internal stair from 1st story to basement; add bedrooms, bath and living space to lower level; remodel kitchen and create new bath at upper level of bottom unit; BPA No. 2012/09/12/9516.

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

**SPEAKERS:** Janet Sum, agent for requestor; Peggy Mangot, permit holder; Troy Kashanipour, agent for permit holder; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

**(5) APPEAL NO. 12-142**

<p>PAAWAN KOTHARI dba "THE CHAI CART", Appellant(s) vs.  DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE &amp; MAPPING, Respondent</p>	<p>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. <b>FOR REHEARING TODAY. Note: On January 16, 2013, the appellant did not appear at the hearing and the Board upheld the denial on the basis of the DPW's analysis; then on Feb. 13, 2013, the Board voted to grant the appellant's rehearing request and to schedule a rehearing on April 10, 2013.</b></p>
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**ACTION:** Upon motion by Vice President Lazarus, the Board voted 4-0-1 (Commissioner Hurtado absent) to grant the appeal, overrule the denial of the permit by DPW and issue a permit for a six month period on the basis that (a) the Indian Chai Tea to be sold does not constitute "like food" under the Public Works Code; and (b) the six month duration of the permit will allow time for an analysis of pedestrian traffic congestion concerns.

**SPEAKERS:** Paawan Kothari, appellant; Nick Elsner, DPW BSM.

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PUBLIC COMMENT: None.

**(6) APPEAL NO. 13-010**

SEYOUM MEKONNEN & KIFLAI GRABAB dba "UC MARKET", Appellant(s) vs. DEPT. OF PUBLIC HEALTH, Respondent	1251 – 3 <sup>rd</sup> Avenue. Appealing a twenty-five (25) day suspension of Tobacco Sales Permit, imposed on Jan. 10, 2013. Reason for suspension: selling tobacco products to minors. DIRECTOR'S CASE NO. SMK-1304. FOR HEARING TODAY.
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ACTION: Upon motion by President Hwang, the Board voted 2-2-1 (Commissioner Fung and Commissioner Honda dissented; Commissioner Hurtado absent) to deny the appeal and uphold the 25 day suspension on the basis of the Department of Public Health analysis. Lacking the three votes needed to pass, the motion failed. There being no further motion made, the suspension was upheld by operation of law.

SPEAKERS: Seyoum Mekonnen, appellant; Larry Kessler, DPH.

PUBLIC COMMENT: None.

**ITEMS (7A) AND (7B) SHALL BE HEARD TOGETHER:**

**(7a) APPEAL NO. 13-006**

BILL PASHELINSKY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	404 Jersey Street. Appealing the denial on Sept. 05, 2012, of Permit to Alter a Building (convert existing concrete slab into parking pad with new gate and curb cut). APPLICATION NO. 2011/12/15/0758. JURISDICTION GRANTED JAN. 16, 2013. FOR HEARING TODAY.
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**(7b) APPEAL NO. V13-007**

BILL PASHELINSKY, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	404 Jersey Street. Appealing the denial on Aug. 14, 2012, of Rear Yard Variance (construct a 10 foot wide curb cut and off-street parking pad located within an open area on the subject property which qualifies as the required rear yard). CASE NO. 2012.0173V. JURISDICTION GRANTED JAN. 16, 2013. FOR HEARING TODAY.
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ACTION: Upon motion by President Hwang, the Board voted 4-0-1 (Commissioner Hurtado absent) to continue both matters to May 22, 2013 to allow revised plans to be prepared and submitted.

SPEAKERS: Bartholomew Murphy, agent for appellant; Scott Sanchez, ZA.

PUBLIC COMMENT: None.

**(8) APPEAL NO. 13-008**

NICOLE WRIGHT, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	264 Dolores Street aka 260-264 Dolores Street. Appealing a Notice of Violation & Penalty dated Jan. 05, 2013, addressed to Revocable Trust of Edward Litke and Wellness 264 Center, regarding allegations that the subject property is being used as an unauthorized commercial establishment in violation of the Planning Code. 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 June 5, 2013 to allow the appellant to submit a brief and the subject property owner and Zoning Administrator to submit reply briefs per the normal briefing schedule.

SPEAKERS: Nicole Wright, appellant; Thomas Foran, attorney for subject property owner; Scott Sanchez, ZA.

PUBLIC COMMENT: None.

**(9) APPEAL NO. 13-009**

GREG HOLZMAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	721 Beach Street. Protesting the issuance on Jan. 15, 2013, to Jeff Sears, Permit to Erect a Building (three-story, two-unit, retail/commercial/residential building with 3,645sf of ground floor area). APPLICATION NO. 2010/11/29/5645S. FOR HEARING TODAY
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Commissioner Hurtado absent) to deny the appeal and uphold the permit on the basis that it is Code compliant.

SPEAKERS: Greg Holzman, appellant; John Kevlin, attorney for permit holder; Jeff Sears, permit holder; Helena Sears, permit holder; Steve Geiszler, agent for permit holders; Scott Sanchez, ZA.

PUBLIC COMMENT: Tom Bechard and Christopher Upham spoke in support of the permit holders.

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**(10) APPEAL NO. V13-011**

GARY SOKOL, Appellant(s) vs.  ZONING ADMINISTRATOR, Respondent	23-25 Clifford Terrace. Protesting the granting on Jan. 16, 2013, to Kevin & Lucia Wallace, Rear Yard and Non-Complying Structure Variances (construct a one-story vertical addition and front horizontal addition). CASE NO. 2012.0855V. 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 variances on the basis that the Zoning Administrator did not err or abuse his discretion.

**SPEAKERS:** Gary Sokol, appellant; Kevin Wallace, variance holder; Lucia Wallace, variance holder; Joshua Aidlin, agent for variance holders; Scott Sanchez, ZA.

**PUBLIC COMMENT:** Anthony Kaye and Frank Morris spoke in support of the appellant. Kathryn Cocchiglia and Stephanie K. spoke in support of the variance holders.

**ADJOURNMENT.**

There being no further business, President Hwang adjourned the meeting at 8:15 p.m.