

# **BOARD OF APPEALS**

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

### **MEETING MINUTES - WEDNESDAY, JUNE 5, 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); 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: None.

PUBLIC COMMENT: None.

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

SPEAKERS: None.

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

Discussion and possible adoption of the May 22, 2013 minutes.

ACTION: Upon motion by President Hwang, the Board voted 5-0 to adopt the May 22, 2013 minutes.

SPEAKERS: None.

PUBLIC COMMENT: None.

#### **(4) ADDENDUM ITEMS:**

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**(4a) REHEARING REQUEST:**

**Subject property at 349 Banks Street.** Letter from Vicki Shipkowitz, appellant, requesting rehearing of Appeal No. 13-034, Shipkowitz vs. ZA, decided May 08, 2013. At that time, the Board voted 5-0 to uphold the Zoning Administrator's Release of Suspension Request on the basis that the Zoning Administrator did not err or abuse his discretion. Subject Property Owner: Candu Capital Group LLC. ZA Order: asking that the suspension against BPA No. 2012/11/29/5100 be lifted for the reason that the Planning Commission has held a public hearing on the project and voted unanimously to not take DR and approve the project (comply with NOV No. 201275901; legalize construction of deck through the roof at 3rd floor built without benefit of permit.

**ACTION:** Upon motion by President Hwang, the Board voted 5-0 to deny the request.

**SPEAKERS:** Vicki Shipkowitz, requestor; Ritu Vohra, agent for permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI.

**PUBLIC COMMENT:** None.

**(5) APPEAL NO. 13-040**

JAMES STEPHENS dba "SAUSAGE SLINGER", Appellant(s)	100 New Montgomery Street & 3151-3153 – 16 <sup>th</sup> Street. Appealing the revocation on March 20, 2013, of Mobile Food Facility Permit (sale of hot dogs, chips and soda). PERMIT NO. 11MFF-0070. FOR HEARING TODAY.
vs.	
DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent	

**ACTION:** Upon motion by Commissioner Hurtado, the Board voted 5-0 to grant the appeal and (1) uphold the Department with respect to the revocation of the 16<sup>th</sup> Street location, and (2) overturn the Department with respect to the revocation of the New Montgomery location on the basis that there was no evidence in the record to support the revocation of the New Montgomery location and therefore there was lack of due process with respect to that location.

**SPEAKERS:** Mark Grossman, agent for appellant; James Stephens, appellant; John Kwong, DPW BSM.

**PUBLIC COMMENT:** Haluk Kecelioglu spoke in support of the Department.

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**ITEMS 6A AND 6B SHALL BE HEARD TOGETHER:**

**(6A) APPEAL NO. 13-043**

OMAR ZAAROUR, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	785 Valencia Street. Appealing the imposition of penalty on March 27, 2013, for construction work done without a permit. APPLICATION NO. 2013/03/27/3171. FOR HEARING TODAY.
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**(6B) APPEAL NO. 13-044**

OMAR ZAAROUR, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	570 Green Street. Appealing the imposition of penalty on March 27, 2013, for construction work done without a permit. APPLICATION NO. 2013/03/27/3175. FOR HEARING TODAY.
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**ACTION:** Upon motion by President Hwang, the Board voted 5-0 to reduce the penalties to two (2) times the regular fee on the basis of the testimony provided by the Department.

**SPEAKERS:** Omar Zaarour, appellant; Joseph Duffy, DBI; Scott Sanchez, ZA.

**PUBLIC COMMENT:** None.

**(7) 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. <b>Note: briefing schedule re-instated by Board on April 10, 2013.</b>
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**ACTION:** Upon motion by Commissioner Hurtado, the Board voted 5-0 to deny the appeal and uphold the Notice of Violation and Penalty on the basis that the Zoning Administrator did not err or abuse his discretion.

**SPEAKERS:** Nicole Wright, appellant; Scott Sanchez, ZA; Joseph Sacramento, attorney for subject property owner.

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PUBLIC COMMENT: Jonathan Black, Sara Diamond, Julie Kunz and Nikolai Kunz spoke in support of the Zoning Administrator. Trisha Beltz in support of the appellant.

**(8) APPEAL NO. V13-046**

ALLISON PERRY, DOUGLAS KIERNAN, ELLIOTT PETRICKA & ROBERT WARREN, Appellant(s) vs.  ZONING ADMINISTRATOR, Respondent	639 Peralta Avenue. Protesting the granting on April 05, 2013, to Yakuh Askew, Front Setback, Dwelling Unit Exposure & Rear Yard Variances (construct new two-story, two-family dwelling on vacant lot). VARIANCE CASE NO. 2012.0852V. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to reschedule this matter to July 10, 2013.

SPEAKERS: Allison Perry, appellant; Yakuh Askew, variance holder.

PUBLIC COMMENT: None.

**ADJOURNMENT.**

There being no further business, President Hwang adjourned the meeting at 7:20 p.m.