

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, MAY 22, 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); Dr. Rajiv Bhatia, Director of Environmental Health, 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: None.

PUBLIC COMMENT: None.

(2) COMMISSIONER COMMENTS & QUESTIONS

SPEAKERS: None.

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the May 15, 2013 minutes.

ACTION: Upon motion by President Hwang, the Board voted 5-0 to adopt the May 15, 2013 minutes.

SPEAKERS: None.

PUBLIC COMMENT: None.

(4) SPECIAL ITEM:

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Presentation by Patrick Otellini, Director of Earthquake Safety at the General Services Agency, regarding proposed new legislation requiring retrofitting of multi-unit soft story buildings.

ACTION: Patrick Otellini spoke to the Board about new legislation addressing mandatory soft-story retrofitting as part of a thirty-year Community Action Plan for Seismic Safety.

SPEAKERS: Patrick Otellini, Director of Earthquake Safety, General Services Agency.

PUBLIC COMMENT: None.

(5) APPEAL NO. 13-035

GERARD DARIAN dba "ROOSTERTAIL RESTAURANT", Appellant(s) vs. DEPT. OF PUBLIC HEALTH, Respondent	1963 Sutter Street. Appealing the denial on March 14, 2013, of Noise Limit Variance. FOR HEARING TODAY.
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ACTION: Upon motion by President Hwang, the Board voted 5-0, to deny the appeal and uphold the denial of the variance for the reason stated in the Department of Public Health Order.

SPEAKERS: Gerard Darian, appellant; Tracy Green, agent for appellant; Dr. Rajiv Bhatia, DPH.

PUBLIC COMMENT: Michiko Yamada and Kevin Chin spoke in support of the Department of Public Health.

(6) APPEAL NO. 12-117

NICHOLAS ANDRADE & JAMES McDERMOTT, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	498 Hoffman Avenue. Appealing a Letter of Determination dated Sept. 17, 2012, addressed to Allen Sowle, regarding the legal dwelling unit count for the subject property. FOR REHEARING TODAY. Public Hearing held and closed on Nov. 07, 2012. At that time a motion to uphold the Letter of Determination did not muster sufficient votes to pass and the Letter of Determination was upheld by operation of law. On Dec. 12, 2012, the Board voted 5-0 to grant the appellants' rehearing request.
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ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to deny the appeal and uphold the Letter of Determination on the basis that the Zoning Administrator did not err or abuse his discretion.

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SPEAKERS: Allen Sowle, attorney for appellant; Scott Sanchez, ZA; Joseph Duffy, DBI.

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. Note: additional briefing is allowed for submittal of settlement documents / revised plans.
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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. Note: additional briefing is allowed for submittal of settlement documents / revised plans.
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ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to grant both appeals, overrule both denials, issue the permit on the condition that it conforms to the revised plans dated May 15, 2013, and grant the variance on the basis that the revised project satisfies the five findings required under Planning Code Section 305(c). These actions were taken on the basis that the provision of the two parking spaces resolves the concerns.

SPEAKERS: Bill Pashelinsky, appellant; Scott Sanchez, ZA.

PUBLIC COMMENT: None.

(8) APPEAL NO. 13-036

CHINE HUI, Appellant(s) vs.	865 El Camino Del Mar. Protesting the issuance on March 14, 2013, to
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DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	Jennifer King & Timothy Fredel, Permit to Alter a Building (demolition of existing solarium on roof; interior renovation; replace existing windows as needed; repair and replace exterior shingles as necessary). APPLICATION NO. 2012/02/06/3645S. FOR HEARING TODAY.
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ACTION: Upon motion by President Hwang, the Board voted 5-0 to continue this matter to June 19, 2013, to allow time for the Planning Department to recalculate the height of the proposed project.

SPEAKERS: Kimberly Huangfu, attorney for appellant; Samuel Kwong, agent for appellant; Alice Barkley, attorney for permit holder; Scott Sanchez, ZA.

PUBLIC COMMENT: Sanford Garfinkel spoke in support of the appellant.

ADJOURNMENT.

There being no further business, President Hwang adjourned the meeting at 8:10 p.m.