

## **BOARD OF APPEALS**

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

#### **MEETING MINUTES - WEDNESDAY, AUGUST 14, 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); Anthony Grieco, Chief Building Inspector, Department of Building Inspection (DBI); Christiane Hayashi, Deputy Director of Taxis and Accessible Services, San Francisco Municipal Transportation Agency (SFMTA); 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.

PUBLIC COMMENT: None.

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

SPEAKERS: None.

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

Discussion and possible adoption of the July 31, 2013 minutes.

ACTION: Upon motion by President Hwang, the Board voted 5-0 to adopt the July 31, 2013 minutes.

SPEAKERS: None.

PUBLIC COMMENT: None.

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(4) **SPECIAL ITEM:**

Consideration and possible action to enter into a Memorandum of Understanding with the San Francisco Municipal Transportation Agency for the Board of Appeals to hear and decide appeals of certain individual permits and other taxi-related determinations.

ACTION: After the SFMTA presentation, public comment and deliberation by the Board, no motion was made and no action taken.

SPEAKERS: Christiane Hayashi, SFMTA.

PUBLIC COMMENT: Tara Housman, Anne McVeigh, Carl Macmurdo and Mark Gruberg spoke in opposition to the proposed Memorandum of Understanding. Barry Taranto spoke in support of the Memorandum of Understanding.

(5) **ADDENDUM ITEMS:**

(5a) **JURISDICTION REQUEST:**

**Subject property at 435-437 Potrero Avenue.** Letter from Mica Ringel, requestor, asking that the Board take jurisdiction over a Zoning Administrator Letter of Legitimization, issued on June 04, 2013. The appeal period ended on June 19, 2013, and the jurisdiction request was filed on July 25, 2013. Subject Property Owner: F.W. Spencer & Son Inc. ZA Order: regarding a request to legitimize the existing "Internet Services Exchange" use on the entirety of both floors in the existing two-story building totaling approximately 10,000 gross square feet.

ACTION: Upon motion by Vice President Lazarus, the Board voted 5-0 to deny the Jurisdiction Request.

SPEAKERS: Mica Ringel, requestor; David Silverman, attorney for determination holder; Scott Sanchez, ZA.

PUBLIC COMMENT: Alicia Gamez described how names are listed by the Assessor/Recorder's Office for properties with multiple owners.

(5b) **JURISDICTION REQUEST:**

**Subject property at 3166 – 16<sup>th</sup> Street.** Letter from Valencia Corridor Merchants Association, requestor, asking that the Board take jurisdiction over a Zoning Administrator Letter of Determination, issued on Sept. 06, 2012. The appeal period ended on Sept. 21, 2012, and the jurisdiction request was filed on July 29, 2013. Determination Holder: Jack Spade. ZA Order: regarding whether the fashion retail business known as "Jack Spade" would be classified as a formula retail establishment under the Planning Code.

ACTION: Upon motion by Vice President Lazarus, the Board voted 5-0 to deny the Jurisdiction Request.

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SPEAKERS: Jefferson McCarley, agent for requestor; Melissa Xides, agent for determination holder; Scott Sanchez, ZA.

PUBLIC COMMENT: Jeremy Paul, Dema Grim, Deena Davenport, Andy Blue, Kyle Smealliz, Marc Salomon, Blazy Culbertson, Haley Lynn, Brooke Cooley, Alicia Gamez, Benjamin Wacks, Arin Fishkin, Jeff Segue, Kelly Gallamore, Skot Kuiper, Erick Arguello and Eileen Hassi spoke in support of the requestor. Michael Gardner, Carmen Castillo, Benjamin, Nat Cutler and Lindsey Lebalch spoke in support of the determination holder.

(5c) **REHEARING REQUEST:**

**Subject property at 70 Crestline Drive.** Letter from Kenda McIntosh, attorney for Shamus Naughten / Dolmen Property Group LLC, permit holder, requesting rehearing of Appeal No. 13-062, T.P.E.N.A vs. DBI, PDA, decided July 17, 2013. At that time, the Board voted 4-1 (Commissioner Fung dissented) to grant the appeal and overturn the permit on the following basis: (1) the project does create exceptional and extraordinary circumstances because it will not preserve and protect the character and stability of the Vista Francisco Development and it will not be an orderly and beneficial in-fill project in the Vista Francisco Development; (2) the project, if approved, will result in an inappropriate precedent or expectation for a similar in-fill project elsewhere in the Vista Francisco Development; and (3) the Board's authority pursuant to Article 1, Section 26 of the San Francisco Business and Tax Regulations Code to consider the project's effect on surrounding properties and residents. Appellant: Twin Peaks Eastside Neighborhood Alliance. Project: Permit to Erect a Building (4-story, 4-unit residential building with 1,420sf of ground floor area; BPA No. 2009/08/25/5545S.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to continue the matter to the Call of the Chair pending the resolution of the subdivision issue.

SPEAKERS: Daniel Frattin, attorney for requestor; Donald Bateman, agent for appellant; Rodrigo Santos, agent for requestor; Scott Sanchez, ZA.

PUBLIC COMMENT: Nancy O'Brien, Don Burman, Martha Gorzycki and John Hiykel spoke in support of the appellant.

(6) **APPEAL NO. V13-073**

MEGHAN BLAKE, Appellant(s) vs.  ZONING ADMINISTRATOR, Respondent	225 Clipper Street. Appealing the DENIAL on June 14, 2013, of Front Setback and Screening of Off-Street Parking Variances (the proposal is to establish an off-street parking space in the front setback of the existing single family structure). VARIANCE CASE NO. 2012.1328V. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Hurtado, the Board voted 5-0 to deny the appeal and uphold the denial of the variance on the basis that the Zoning Administrator did not err or abuse his discretion.

SPEAKERS: Ian Murray, agent for appellant; Meghan Blake, appellant; Scott Sanchez, ZA.

PUBLIC COMMENT: None.

**(7) APPEAL NO. 13-067**

<p>PATRICK BUSCOVICH, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent</p>	<p>1045 Minna Street &amp; 35-41 Lafayette Street. Appealing a SUSPENSION REQUEST dated May 16, 2013, addressed to Dept. of Building Inspection Acting Director Tom Hui, asking that BPA Nos. 2013/02/08/9771, 2012/11/19/4467, 2013/02/08/9775 and 2012/11/19/4468 be suspended because the Planning Department believes these permits (replace existing brick perimeter footing for both buildings) have exceeded the approved scope of work. FOR HEARING TODAY.</p>
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ACTION: Upon motion by President Hwang, the Board voted 5-0 reschedule this matter to October 9, 2013, at the request of the parties.

SPEAKERS: None.

PUBLIC COMMENT: None.

**ADJOURNMENT.**

There being no further business, President Hwang adjourned the meeting at 8:50 p.m.