

# **BOARD OF APPEALS**

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

### **MEETING MINUTES – WEDNESDAY, NOVEMBER 2, 2022**

#### **HYBRID MEETING (IN-PERSON AND REMOTE ACCESS VIA ZOOM)**

#### **5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE**

PRESENT: President Rick Swig, Vice President Jose Lopez, Commissioner Alex Lemberg, Commissioner John Trasviña, and Commissioner J.R. Eppler.

Jon Givner, Deputy City Attorney, Office of the City Attorney (CAT); Tina Tam, Deputy Zoning Administrator, Planning Department (PD); Natalia Kwiatkowska, Principal Planner and ADU Coordinator, PD; Matthew Greene, Acting Chief Building Inspector, Department of Building Inspection (DBI); Julie Rosenberg, Executive Director; Alec Longaway, Legal Assistant.

#### **(1) SPECIAL ITEM**

Consideration and possible adoption of a resolution which makes findings to allow teleconferenced meetings under California Government Code Section 54953(e).

ACTION: Upon motion by President Swig, the Board voted 5-0 to adopt the resolution.

PUBLIC COMMENT: None.

#### **(2) 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. At the discretion of the Board President, public comment may be limited to two 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:**

Carl Macmurdo spoke about the October 18, 2022, SFMTA Board meeting agenda item in which taxi staff tried to remove taxi appeals from the jurisdiction of the Board of Appeals. He stated that Director Steve Heminger successfully moved to sever the Board of Appeals issue from the unrelated calendar item. Mr. Macmurdo further stated that the Transportation Code was changed in 2016 to require that medallion holders have a California Driver's License to renew their medallions.

He believed this change deliberately targeted elderly and disabled people who were unable to obtain a California Driver's License because of their disabilities. He stated that hundreds of elderly or disabled taxi drivers could not obtain the valuable permits which serve as a de facto pension. He also noted that, for the past several years, medallion holders have been ubered out of that anticipated income.

Mark Gruber spoke as a taxi driver and board member of the San Francisco Taxi Driver's Alliance. He addressed the issue of the Board's jurisdiction over taxi permit appeals. He stated that ten years ago, the issue came before the Board after the SFMTA issued a large number of taxi medallions to cab companies in violation of the provisions of the Police Code then in effect. The United Taxicab Workers, a predecessor to the current union, attempted to file an appeal. The Executive Director at the time rejected the application, so they filed a request for jurisdiction. He stated that they had the disadvantage of appearing before a four-member Board which denied jurisdiction on a vote of 2-2. The argument mainly rested on City Charter Section 4.106(b) which governs the right of appeals to the Board from permit decisions of all City Departments with limited and explicit exceptions, taxi permits not being among them. He further stated that the SFMTA maintains that the taxi provisions in the Charter sections governing the SFMTA, supersede the provisions of Section 4.106(b). He argued that any seeming conflict between these sections can and should be reconciled in favor of preserving the precious right of appeal which is so important to cab drivers, who most often cannot afford to take an appeal to court. He stated that he would be sending the Board of Appeals the brief that was submitted in conjunction with the Jurisdiction Request.

Dirk Neyhart spoke as a former cab driver whose medallion was revoked by the Board. He stated that he had no reason to expect sympathy, compassion, empathy, or kindness from the commission. He stated that he did have the expectation of the rule of law, and he was not seeing it.

**(3) COMMISSIONER COMMENTS & QUESTIONS**

SPEAKERS: None.

**(4) ADOPTION OF MINUTES**

Discussion and possible adoption of the October 19, 2022 minutes.
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ACTION: Upon motion by Vice President Lopez, the Board voted 5-0 to adopt the October 19, 2022 meeting minutes.

PUBLIC COMMENT: None.

**(5) SPECIAL ITEM: OVERVIEW OF THE ACCESSORY DWELLING UNIT (ADU) PROGRAMS.**

A presentation by Natalia Kwiatkowska, Principal Planner and ADU Coordinator, on ADU Programs. The presentation will cover three ADU Programs, including the Local ADU Program, State ADU Program, and Hybrid ADU Program.
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SPEAKERS: Natalia Kwiatkowska, PD.

PUBLIC COMMENT: Jeremy Schaub, an architect, stated that he found the presentation helpful. He asked if open space would have to be replaced if it was taken away from tenants. He further

commented that there was oftentimes confusion in coordinating the Planning Department's review on these ADUs with the review by the Building Department. He stated that he would appreciate it if the review process could be harmonized.

**(6) JURISDICTION REQUEST NO. 22-7**

**Subject property at 524 Lake Street.** Letter from Margaret and Michael Bloomfield, requestors, asking that the Board take jurisdiction over Building Permit No. 2022/0728/9473, which was issued on August 2, 2022. The appeal period ended on August 17, 2022, and the jurisdiction request was filed at the Board office on October 11, 2022. **Permit Holder:** Greg Germano. **Permit Description:** Remove old cabinets, replace with new cabinets and countertop with sink, disposal, back splash, new flooring, paint, lighting, and counter outlets.

**ACTION:** Upon motion by Commissioner Lemberg, the Board voted 2-3 (President Swig, Vice President Lopez and Commissioner Trasviña dissented) to grant the request on the basis that there was a substantial possibility that there was a City error in posting the permit information on DBI's website which caused the requestors to be late in filing an appeal. Lacking the four votes needed to pass, the motion failed.

After the matter had been decided and while the commissioners were hearing Items (7A) and (7B), upon motion by Commissioner Trasviña, the Board voted 5-0 to reconsider the previous vote for Jurisdiction Request No. 22-7.

Upon motion by Commissioner Lemberg, the Board voted 4-1 (President Swig dissented) to grant the request on the basis that the City inadvertently caused the requestors to be late in filing an appeal.

**SPEAKERS:** Steve Collier, attorney for requestors; Alex Serrano, agent for permit holder; Matthew Greene, DBI.

**PUBLIC COMMENT:** Suzanne Levine spoke in support of the requestors.

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

**(7A) APPEAL NO. 22-068**

MARGARET BLOOMFIELD and MICHAEL BLOOMFIELD, Appellant(s)	524 Lake Street.
vs.	Appealing the ISSUANCE on September 27, 2022, to Greg Germano, of an Electrical Permit (install electrical outlets and lighting for kitchen remodel and add one outlet and lighting in bathroom).
DEPT. OF BUILDING INSPECTION, Respondent	PERMIT NO. EW2022/0927/6277. FOR HEARING TODAY.

**(7B) APPEAL NO. 22-069**

MARGARET BLOOMFIELD and MICHAEL BLOOMFIELD, Appellant(s)  vs.  DEPT. OF BUILDING INSPECTION, Respondent	524 Lake Street. Appealing the ISSUANCE on September 27, 2022, to Greg Germano, of a Plumbing Permit (kitchen and laundry remodel; new gas from meter to kitchen and laundry; bathroom remodel). PERMIT NO. PP2022/0927/270. FOR HEARING TODAY.
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ACTION: Upon motion by Vice President Lopez, the Board voted 5-0 to continue these appeals to December 14, 2022.

SPEAKERS: Steven Collier, attorney for appellants; Margaret Bloomfield, appellant; Michael Bloomfield, appellant; Greg Germano, permit holder; Alex Serrano, agent for permit holder.

PUBLIC COMMENT: Suzanne Levine spoke in support of the appellants.

**ITEMS (8A) AND (8B) SHALL BE HEARD TOGETHER**

**(8A) APPEAL NO. 22-066**

1801 BRODERICK STREET CONDOMINIUM ASSOCIATION, Appellant(s)  vs.  DEPT. OF BUILDING INSPECTION, Respondent	1825 Broderick Street. Appealing the ISSUANCE on September 13, 2022, to Bay View Property Managers, of an Alteration Permit (install siding to the left wall of building - 6" clapboard vinyl; not visible from the street). PERMIT NO. 2022/01/21/6409. FOR HEARING TODAY.
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**(8B) APPEAL NO. 22-067**

JEFFREY NEWMAN and SCOTT FERGUSON, Appellant(s)  vs.  DEPT. OF BUILDING INSPECTION, Respondent	1825 Broderick Street. Appealing the ISSUANCE on September 13, 2022, to Bay View Property Managers, of an Alteration Permit (install siding to the left wall of building - 6" clapboard vinyl; not visible from the street). PERMIT NO. 2022/01/21/6409. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Lemberg, the Board voted 5-0 to grant the appeals and revoke the permit on the basis that it was not properly issued.

SPEAKERS: None.

PUBLIC COMMENT: None.

**ADJOURNMENT.**

There being no further business, President Swig adjourned the meeting at 8:19 p.m.

The supporting documents for this meeting can be found at the following link:

<https://sf.gov/meeting/november-2-2022/board-appeals-hearing-november-2-2022>

A video of this meeting, can be found at the following link:

<https://sf.gov/meeting/november-2-2022/board-appeals-hearing-november-2-2022>