

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES – WEDNESDAY, MARCH 15, 2023

REGULAR 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.

Jen Huber, Deputy City Attorney, Office of the City Attorney (CAT); Tina Tam, Deputy Zoning Administrator, Planning Department (PD); Matthew Greene, Chief Building Inspector, Department of Building Inspection (DBI); Julie Rosenberg, Executive Director; Alec Longaway, 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. 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: Scott Emblidge spoke about two appeals heard by the Board on December 14, 2022. Those appeals involved permits issued for the property located 146 23rd Avenue. He stated that work had been done at the site without permits and DBI had found that the foundation of one of the neighboring properties might have been undermined. He stated that the permit holder had agreed at the hearing to allow the neighbors' engineers to inspect work at the site. He further stated that the Board granted the appeals and imposed conditions on the permit, including the requirement that the permit holder have a soils engineer perform a soil compaction test, prepare a report with the findings of the test and to share this report with DBI and the appellant. Mr. Emblidge stated, however, that the permit holder has not adhered to the Board's conditions and that DBI allowed the work to be completed without complying with the Board's requirements. He noted that the neighbors' engineers were not given the promised access and no soil compaction tests were ever performed. He asked the Board to read the letter that he submitted for public comment and wanted to know if the Board could do something about this situation.

Brad Solomon spoke about the same appeals as Mr. Emblidge. He stated that he had appeared virtually at the hearing on December 14th and made a statement on behalf of one of the neighbors,

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Mr. Maher. He stated that he was astounded by what has continued to take place at the property and that he had never seen an entity act the way DBI had acted in this case. He further stated that what was being done completely undermined the authority of the Board. He questioned the purpose of the process if the Board was not able to enforce its own order. He stated that it would be greatly appreciated if the Board could do something to correct the matter.

(2) COMMISSIONER COMMENTS & QUESTIONS

SPEAKERS: None.

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the March 1, 2023 minutes.

ACTION: Upon motion by Commissioner Lemberg, the Board voted 5-0 to adopt the March 1, 2023, hearing minutes.

PUBLIC COMMENT: None.

(4) APPEAL NO. 23-006

<p>GABE ZELDIN and CAROLINE SIMONDS, Appellant(s)</p> <p style="text-align: center;">vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>264 Diamond Street. Appealing the ISSUANCE on January 20, 2023, to Betsy Bayha and Heidi Gewertz, of a Site Permit (reconstruct garage level storage area at rear of building; infill 49 square feet at ground level; infill 142 square feet at existing first level mud room; renovate and expand existing kitchen and relocate 1/2 bath on first level; reconstruct existing second level office with 32 square feet added; construct new rear deck and stairs at first floor and decks over infill space at second floor). PERMIT NO. 2021/11/16/2462. FOR HEARING TODAY.</p>
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ACTION: Upon motion by President Swig, the Board voted 3-2 (Commissioner Trasviña and Commissioner Lemberg dissented) to deny the appeal and uphold the permit on the basis that it was properly issued in compliance with the Residential Design Guidelines and it protected the Mid-Block Open Space.

SPEAKERS: Gabe Zeldin, appellant; Betsy Bayha, permit holder; Tina Tam, PD; Scott Emblidge, attorney for permit holders.

PUBLIC COMMENT: Matthew DeCoster and Matthew Carhart spoke in support of the permit holders. Roey Rahail spoke in support of the appellants.

(5) APPEAL NO. 23-007

<p>TAKESHI MORO, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>1468 Van Dyke Avenue. Appealing the ISSUANCE on January 23, 2023, to Chau Chung, of an Alteration Permit (comply with Notice of Violation No. 2022291235; legalize one-level rear deck at rear yard with one-hour fire wall; legalize metal gate at front; remove patio cover: gazebo-canopy; new bathroom and home office; remove ladder to attic). PERMIT NO. 2022/07/12/8311. FOR HEARING TODAY.</p>
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ACTION: Upon motion by President Swig, the Board voted 5-0 to continue this matter to May 17, 2023, so that the permit holder can submit revised plans to reflect the following changes: (1) The two windows at the attic level shall be removed and the attic restored to the original condition of the house; the attic shall be used for maintenance purposes only and not for habitation or storage; (2) the deck shall be lowered to grade or made no higher than 30 inches, as measured from the grade; the deck shall be set back five feet from the appellant's property line; these changes will remove the requirement for a firewall at the deck; and (3) the dining room shall not be allowed to be converted to a home office, consequently the plans must be revised to remove the walls and the 12-inch window at this location. This motion was made on the basis that these changes will rectify the illegal work performed by the permit holder and address some of the concerns of the appellant.

SPEAKERS: Niall Vignoles, attorney for appellant; Takeshi Moro, appellant; Butte Wong, agent for permit holder; Cindy Tran, agent for permit holder; Monica (Cantonese Interpreter for Cindy Tran); Tina Tam, PD; Matthew Greene, DBI.

PUBLIC COMMENT: Kenny Buncum; Kathleen Maxwell; Robert Whitt and Greg Sunday spoke in support of the appellant. Paulina Lu spoke in support of the permit holder.

ITEMS (6A), (6B), (6C) & (6D) SHALL BE HEARD TOGETHER

(6A) APPEAL NO. 22-072

<p>HUNTER LEIGH and MARIA LEIGH, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent</p>	<p>1863 Pine Street. Appealing the ISSUANCE on September 30, 2022, to Surinder Sandhu, of an Electrical Permit (rewire all three remodel floors with new 200-amp service). PERMIT NO. E202209302726. FOR HEARING TODAY. Note: On November 30, 2022, upon motion by Commissioner Lemberg, the Board voted 5-0 to continue these appeals to February 1, 2023, at the request of the parties. On February 1, 2023, upon motion by President Swig, the Board voted 5-0 to continue these appeals to February 22, 2023, at the request of the parties. On February 14, 2023, the appeals were rescheduled, at the initiation of the Board Office and with the agreement of the parties, to March 15, 2023. The Board Office requested that the appeals be rescheduled due to a heavy calendar on February 22, 2023.</p>
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(6B) APPEAL NO. 22-073

<p>HUNTER LEIGH and MARIA LEIGH, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent</p>	<p>1863 Pine Street. Appealing the ISSUANCE on September 30, 2022, to Surinder Sandhu, of a Plumbing Permit (All new hot and cold waste and ventilation throughout floors including four bathrooms, six sinks, kitchen sink and washer/dryer, dishwasher, water heater, storm drain, three shower pans, and one tub). PERMIT NO. PP20220930335. FOR HEARING TODAY. See note in (6A) above.</p>
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(6C) APPEAL NO. 22-074

<p>HUNTER LEIGH and MARIA LEIGH, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent</p>	<p>1863 Pine Street. Appealing the ISSUANCE on September 30, 2022, to Surinder Sandhu, of a Building Permit (install fan 80,000 BTU, six fans and one kitchen hood). PERMIT NO. PM20220930337. FOR HEARING TODAY. See note in (6A) above.</p>
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(6D) APPEAL NO. 22-075

HUNTER LEIGH and MARIA LEIGH, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1863 Pine Street. Appealing the ISSUANCE on October 27, 2022, to Surinder Sandhu, of an Alteration Permit (Revision to permit #202102084273; add bathroom on third floor; add shower on first floor; slope ceiling in the kitchen). PERMIT NO. 2022/06/06/5684. FOR HEARING TODAY. See note in (6A) above.
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ACTION: Upon motion from Commissioner Lemberg, the Board voted 5-0 to continue these Items to April 12, 2023, at the request of the parties.

SPEAKERS: None.

PUBLIC COMMENT: None.

ADJOURNMENT.

There being no further business, President Swig adjourned the meeting at 9:57 p.m.

The supporting documents for this meeting can be found at the following link:
<https://sf.gov/meeting/march-15-2023/board-appeals-hearing-march-15-2023>

A video of this meeting, can be found at the following link:
https://sanfrancisco.granicus.com/player/clip/43199?view_id=6&redirect=true&h=5e904b3b899fb64e03291bcb3ebcabf1