

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES – WEDNESDAY, OCTOBER 11, 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, Commissioner John Trasviña, Commissioner Alex Lemberg, 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, Acting Deputy Director Inspection Services, Department of Building Inspection (DBI); Larry Kessler, Program Manager, Retail Tobacco and Smoking Program, Department of Public Health (DPH); Janine Young, Senior Health Inspector, Retail Tobacco and Smoking Program, DPH; Julie Rosenberg, Executive Director; Alec Longaway, Legal Assistant.

ABSENT: Vice President Jose Lopez.

(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 and remote public participation may be limited to two minutes per person. If it is demonstrated that public comment and remote public participation will cumulatively exceed 15 minutes, the President may continue Public Comment and/or remote public participation to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONER COMMENTS & QUESTIONS**

SPEAKERS: Commissioner Trasviña stated that, in previous public comment, taxi drivers expressed concerns about retaliation for having appealed permit revocations to the Board. He noted that at a previous meeting he asked the City Attorney's Office what protections were available to individuals who have these concerns. He stated that he believed that Deputy City Attorney Huber had looked into his inquiry and asked if she could provide a response.

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Deputy City Attorney Huber stated that the remedy for retaliation by a City employee or contractor against someone who was exercising their right to bring an appeal before the Board, was to file a complaint with the Whistleblower Program, which is administered by the Controller's Office.

President Swig thanked Deputy City Attorney Huber for following up on this matter and for informing the public about its rights.

PUBLIC COMMENT: None.

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the September 27, 2023 minutes.

ACTION: Upon motion by Commissioner Eppler, the Board voted 4-0-1 (Vice President Lopez absent) to adopt the September 27, 2023 hearing minutes.

PUBLIC COMMENT: None.

(4) JURISDICTION REQUEST NO. 23-2

Subject property at 2442 Great Highway. Letter from Great Highway, LLC, requestor, asking that the Board take jurisdiction over Alteration Permit No. 2022/01/18/6097, which was issued on May 2, 2022. The appeal period ended on May 17, 2022, and the Jurisdiction Request was filed at the Board office on September 15, 2023. **Permit Holder:** Stora Highway LLC . **Permit Description:** Interior remodel of two residential units (#1 & #3); front facade alterations.

ACTION: Upon motion by Commissioner Eppler, the Board voted 4-0-1 (Vice President Lopez absent) to deny the request on the basis that the City did not intentionally or inadvertently cause the requestor to be late in filing an appeal.

SPEAKERS: Tony Bral, requestor; Tom Tunny, attorney for permit holder; Tina Tam, PD; Matthew Greene, DBI.

PUBLIC COMMENT: Anthony Settles and Gary Anderson spoke in support of the requestor.

(5) APPEAL NO. 23-040

THE JUG SHOP, Appellant(s) vs. DEPT. OF PUBLIC HEALTH, Respondent	1648 Pacific Avenue. Appealing the ISSUANCE on August 18, 2023, to The Jug Shop, of a Notification of Tobacco Permit Denial (denial of a Retail Tobacco Sales Permit). EHD ID No. 11992. FOR HEARING TODAY.
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ACTION: Upon motion by President Swig, the Board voted 3-1-1 (Commissioner Lemberg dissented and Vice President Lopez absent) to deny the appeal and uphold the determination (which denied the Retail Tobacco Sales Permit) on the basis that it was properly issued.

SPEAKERS: Michael Priolo, agent for appellant; Larry Kessler, DPH; Janine Young, DPH.

PUBLIC COMMENT: None.

(6) APPEAL NO. 23-041

SANFORD GARFINKEL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	110 32nd Avenue. Appealing the ISSUANCE on August 17, 2023, to Samuel Hui, of an Alteration Permit (commencement of Permit Application #201606210534-S; horizontal addition (solarium) at penthouse floor; remove two chimneys; refinish existing penthouse roof deck & replace damaged gutters and downspout). PERMIT NO. 2022/03/29/1124. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Lemberg, the Board voted 4-0-1 (Vice President Lopez absent) to deny the appeal and uphold the permit on the basis that it was properly issued.

SPEAKERS: Sanford Garfinkel, appellant; Samuel Kwong, agent for permit holder; Tina Tam, PD; Matthew Greene, DBI.

PUBLIC COMMENT: None.

(7) APPEAL NO. 23-039

GRACE BACIGALUPI, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1367 San Bruno Avenue. Appealing the ISSUANCE on August 10, 2023, to Grace Bacigalupi, of a Letter of Determination (The Zoning Administrator has determined that the existing parking space at the front of the property is a legally permitted parking space under the Planning Code. However, the garage building was removed and the existing fence between the street and parking space does not provide adequate screening. Therefore, a building permit must be filed, issued and completed to provide adequate screening of the parking space as required by the Planning Code). RECORD NO. 2023-004009ZAD. FOR HEARING TODAY.
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ACTION: Upon motion by President Swig, the Board voted 3-1-1 (Commissioner Trasviña dissented and Vice President Lopez absent) to deny the appeal on the basis that the Zoning Administrator did not err or abuse his discretion and the determination was properly issued.

SPEAKERS: Grace Bacigalupi, appellant; Tina Tam, PD.

PUBLIC COMMENT: None.

ADJOURNMENT.

There being no further business, President Swig adjourned the meeting at 8:14 p.m.

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

<https://sf.gov/meeting/october-11-2023/board-appeals-hearing-october-11-2023>

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

https://sanfrancisco.granicus.com/player/clip/44631?view_id=6&redirect=true&h=b6644e5dc95f709aca2c4be89c4772cd