

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

DRAFT MEETING MINUTES – WEDNESDAY, OCTOBER 25, 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 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); 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 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: President Swig noted that the Giants have a great new field manager, Mr. Melvin.

PUBLIC COMMENT: None.

(3) **ADOPTION OF MINUTES**

Discussion and possible adoption of the October 11, 2023 minutes.

ACTION: Upon motion by Commissioner Trasviña, the Board voted 5-0 to adopt the October 11, 2023 hearing minutes.

PUBLIC COMMENT: None.

(4) REHEARING REQUEST FOR APPEAL NO. 23-030

Subject property at 144 25th Avenue. Bruce and Deborah MacLeod, Appellants, are requesting a rehearing of Appeal No. 23-030, BRUCE MACLEOD and DEBORAH MACLEOD vs. DEPT. OF BUILDING INSPECTION, PLANNING DEPT. APPROVAL, decided September 27, 2023. At that time, upon a motion by Vice President Lopez, the Board voted 5-0 to grant the appeal and issue the permit on the condition it be revised to require the adoption of the revised plans, dated 9/27/23, which were submitted by the permit holder as Exhibit G to his one-page statement with the requirement that the permit holder add the structural detail for the ten-foot fence. The motion was made on the basis that the revised plans are Code compliant and take into account the privacy concerns of the appellants. **Permit Holder:** Frank Bellizzi. **Permit Description:** The project generally consists of replacement of the existing first floor deck and expanding the deck to the rear-yard setback line; addition of a roof deck above the second bedroom office floor, accessed via four new doors from the third-floor office. **Permit No.:** 2023/02/02/1229.

ACTION: Upon motion by Commissioner Eppler, the Board voted 5-0 to deny the rehearing request on the basis that no evidence of manifest injustice had been presented, nor any material facts and circumstances which, if known at the time of the original hearing, would have affected its outcome.

SPEAKERS: Bruce MacLeod, requestor; Deborah MacLeod, requestor; Frank Bellizzi, permit holder; Tina Tam, PD.

PUBLIC COMMENT: None.

(5) JURISDICTION REQUEST NO. 23-3

Subject property at 2442 Great Highway. Letter from Great Highway, LLC, requestor, asking that the Board take jurisdiction over Electrical Permit No. EW202306262097, which was issued on June 26, 2023. The appeal period ended on July 11, 2023, and the Jurisdiction Request was filed at the Board office on October 5, 2023. **Permit Holder:** Stora Highway LLC . **Permit Description:** Installation of rooftop PV system; PV system includes: AC PV modules, PV racking, all necessary stanchions, conduit, conductors and breakers; six roof-mounted solar PV modules, 425 watts per module, six interactive inverter, total no. of rating 2.304 KW.

ACTION: Upon motion by President Swig, the Board voted 5-0 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; Matthew Greene, DBI.

PUBLIC COMMENT: None.

(6) APPEAL NO. 23-043

<p>JOHN WONG, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>1334 12th Avenue. Appealing the ISSUANCE on September 7, 2023, to Eric Hall and Helene Favre, of a Site Permit (horizontal addition to the rear on three levels and a 12-foot pop-out). PERMIT NO. 2021/05/06/9906. FOR HEARING TODAY.</p>
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ACTION: Upon motion by Commissioner Trasviña, the Board voted 4-1 (President Swig dissented) to continue this Item to November 1, 2023, so that the appellant could review the approved site plans and to allow the inclusion into the record of the appellant's brief, which had formerly been rejected for being untimely.

SPEAKERS: John Wong, appellant; Eric Hall, permit holder; Tim Lorenz, agent for permit holder; Tina Tam, PD; Matthew Greene, DBI.

PUBLIC COMMENT: Mark Benjamin spoke in support of the appellant.

(7) APPEAL NO. 23-042

<p>ELENA ASTURIAS and EDUARDO PANIAGUA, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL</p>	<p>1228 Funston Avenue. Appealing the Cancellation on September 7, 2023, of a Building Permit (new dwelling unit on ground floor per RH-2 Zoning density; to comply with Complaint No. 2015-014724ENF; legalization of unpermitted interior remodeling and vertical addition at rear; restoration of front façade; see Permit Application No. 201402067948). The permit was canceled for: (1) failing to submit the requested or required revisions per the Planning Commission decision DRA-822 deadline, and (2) Other: same project under duplicate Permit No. 2019/0215/3076). PERMIT NO. 2021/01/13/2631. FOR HEARING TODAY.</p>
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ACTION: Upon motion by President Swig, the Board voted 4-0-1 to allow Commissioner Trasviña to recuse himself from hearing the appeal. This motion was made based on Commissioner Trasviña's personal relationship with one of the appellants and in an abundance of caution to the appearance of fairness.

Upon motion by President Swig, the Board voted 3-1-1 (Commissioner Lemberg dissented and Commissioner Trasviña recused) to continue this Item December 13, 2023, so that the record could be supplemented with: (1) Discretionary Review Action DRA-822, and (2) a brief from the Planning Department which includes answers to the following questions: Does the Housing Accountability Act apply to this appeal? If so, is the Planning Commission's imposition of the conditions consistent with the Housing Accountability Act and why?

SPEAKERS: Commissioner Trasviña stated that he would like to recuse himself from hearing the case. He noted that his recusal was not based on any of the established legal grounds, rather it was because of his personal relationship with one of the appellants as well as other members associated with the matter.

President Swig stated that he did not think the record was complete for this case, and he was going to recommend that the matter be continued so that the record could be supplemented with Discretionary Review Action DRA-822, and a brief from the Planning Department on the applicability of the Housing Accountability Act.

Tina Tam, PD; Ryan Patterson, attorney for appellant.

PUBLIC COMMENT: None.

ADJOURNMENT.

There being no further business, President Swig adjourned the meeting at 7:07 p.m.

The supporting documents for this meeting can be found at the following link:
<https://sf.gov/meeting/october-25-2023/board-appeals-hearing-october-25-2023>

A video of this meeting, can be found at the following link:
https://sanfrancisco.granicus.com/player/clip/44756?view_id=6&redirect=true&h=27373b19ca7e36038ac2c043f528dc51