

# **BOARD OF APPEALS**

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

### **MEETING MINUTES – WEDNESDAY, JUNE 7, 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: Eileen Boken spoke on behalf of the Sunset Parkside Education and Action Committee and repeated her comments made at the Capital Planning Committee on May 22, 2023, and at the Planning Commission on May 25, 2023. She stated that the housing element in RHNA 6 would dictate housing for the next eight years. She asked whether the housing element accurately accounted for the differences in the east and west sides of the City, and she talked about these differences.

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

SPEAKERS: None.

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

Discussion and possible adoption of the May 31, 2023 minutes.

ACTION: Upon motion by Commissioner Lemberg, the Board voted 5-0 to adopt the May 31, 2023, meeting minutes.

PUBLIC COMMENT: None.

**(4) APPEAL NO. 23-004**

<p>JIM REID, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>3420-3424 16<sup>th</sup> Street. Appealing the ISSUANCE on January 25, 2023, to Jay Davidson, of an Alteration Permit (Existing 3-unit building: modify lower unit at 3424 16<sup>th</sup> Street; remove window at rear yard bay and replace with a door to allow access to the rear yard; modify alcove at rear to provide a laundry area at lower level and infill door at lower unit at kitchen area with one hour wall). PERMIT NO. 2023/01/23/0604. FOR FURTHER CONSIDERATION. <b>Note: On March 1, 2023, upon motion by Commissioner Lemberg, the Board voted 4-1 (President Swig dissented) to continue this matter to April 12, 2023, so that the parties can attempt to come to an agreement, with the participation of DBI, on an alternative solution. On April 12, 2023, upon motion by Commissioner Lemberg, the Board voted 4-0-1 (Vice President Lopez absent) to continue this matter to June 7, 2023 so that: (1) the permit holder can submit plans that accurately reflect existing conditions at the property, and (2) the parties can attempt to come to an agreement, with the participation of DBI, on an alternative solution.</b></p>
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**ACTION:** Upon motion by Commissioner Lemberg, the Board voted 5-0 to grant the appeal and uphold the permit on the condition it be revised to require the adoption of the revised plans, dated May 1, 2023, on the basis that these new plans reflect the agreement of the parties.

**SPEAKERS:** Matthew Greene, DBI; Jay Davidson, permit holder; Jim Reid, appellant.

**PUBLIC COMMENT:** None.

**(5) APPEAL NO. 23-018**

<p>JENNIFER DESIMONE, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>485-485A Day Street. Appealing the ISSUANCE on April 13, 2023, to John Ford and Wynn Taylor Ford, of a Site Permit (horizontal expansion to rear vertical expansion, add one floor; remodel interior including kitchen and general layout; add three bedrooms and two bathrooms at the new 3<sup>rd</sup> floor; add an ADU behind the existing garage at the 1<sup>st</sup> floor; new windows and cement plaster at front; new roof deck above 3<sup>rd</sup> floor). PERMIT NO. 2020/11/17/9094. FOR HEARING TODAY.</p>
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**ACTION:** Upon motion by Commissioner Trasviña, the Board voted 5-0 to continue this matter to June 21, 2023, at the request of the parties.

**SPEAKERS:** None.

**PUBLIC COMMENT:** None.

**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. <b>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 Items 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. On March 15, 2023, upon motion by Commissioner Lemberg, the Board voted 5-0 to continue these Items to April 12, 2023, at the request of the parties. On April 12, 2023, upon motion by Commissioner Lemberg, the Board voted 4-0-1 (Vice President Lopez absent) to continue these Items to May 31, 2023, so that the parties would have more time to work on a settlement agreement. On May 31, 2023, upon motion by Commissioner Eppler, the Board voted 5-0 to continue these Items to June 7, 2023, at the request of the parties.</b></p>
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**(6B) APPEAL NO. 22-073**

HUNTER LEIGH and MARIA LEIGH, Appellant(s)  vs.  DEPT. OF BUILDING INSPECTION, Respondent	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. <b>See Note in (6A), above.</b>
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**(6C) APPEAL NO. 22-074**

HUNTER LEIGH and MARIA LEIGH, Appellant(s)  vs.  DEPT. OF BUILDING INSPECTION, Respondent	1863 Pine Street. Appealing the ISSUANCE on September 30, 2022, to Surinder Sandhu, of a Building Permit (install fan 80,000 BTU, and six fans and one kitchen hood). PERMIT NO. PM20220930337. FOR HEARING TODAY. <b>See Note in (6A), above.</b>
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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. <b>See Note in (6A), above.</b>
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**ACTION:** Upon motion by Vice President Lopez, the Board voted 5-0 to continue these Items to July 12, 2023, to give the parties more time to confer and to allow the permit holder time to submit revised plans which address the concerns of the appellants and the departments.

**SPEAKERS:** Ryan Patterson, attorney for appellants; Alicia Guerra, attorney for permit holder; Tina Tam, PD; Matthew Greene, DBI.

**PUBLIC COMMENT:** None.

**(7) SPECIAL ITEM: DISCUSSION AND POSSIBLE ACTION**

On April 26, 2023, the Board of Appeals (“BOA”) heard Appeal No. 23-008, an appeal by Friends of the Mission Greenway of a building permit issued to 17<sup>th</sup> and Peralta LLC to replace a fence at 957 Treat Avenue (popularly known as “Parcel 36”). The BOA granted the appeal unanimously, with the support of both the Planning Department and the Department of Building Inspection because 17<sup>th</sup> and Peralta LLC, was not the owner of record for 957 Treat Avenue. Parcel 36 has no apparent owner of record and multiple parties seek to utilize the space, including both parties to the appeal. The Commissioners will consider a draft letter to be sent on behalf of the BOA to Mayor Breed, Supervisor Ronen, President Peskin and relevant City departments requesting that they intervene in the dispute between the public and property owners adjacent to Parcel 36, and take a proactive role in resolving the ambiguous ownership status of Parcel 36.

**ACTION:** Upon motion by Commissioner Lemberg, the Board voted 5-0 to adopt the letter as amended by Commissioner Lemberg, Commissioner Trasviña, and Vice President Lopez.

**SPEAKERS:** Santiago Lerma, Legislative Aide to Supervisor Ronen, stated he was disappointed that the letter was scheduled to be considered by the Board given that it was far beyond the Board’s jurisdiction to opine on what a supervisor has or has not done. He further chronicled the efforts made by Supervisor Ronen on this project and gave a history of the parcel. He stated that the City does not intervene in private land disputes.

**PUBLIC COMMENT:**

Heather Lubeck, on behalf of Mission Kids Preschool, did not support the letter in its current form for the reasons stated in the letter submitted as public comment by Monkeybrains. She further stated that the D9 Supervisor had been responsive to their concerns.

Ana Herrera, Legislative Aide to Supervisor Ronen, stated that she wished they did not have a time limitation on the presentation. She stated that she hoped it was now evident that Supervisor Ronen had been engaged in the process and questioned the need to formally send the letter.

Kelly Menendez stated that she was married to Alex Menendez, co-owner of Monkeybrains. She stated that the day Monkeybrains received the keys, Mission Greenway declared war. She was against adopting the letter.

Julia Mata, an attorney on behalf of Monkeybrains, stated that parts of the letter were factually inaccurate. She stated that the letter suggested that there was no owner of record, but that was simply not true. She stated that the Assessor’s Office had undertaken great efforts to determine the legal owners of Parcel 36 and had, in fact, done so. She noted that this information had not been shared with DBI. She stated that Monkeybrains and Mission Greenway were not on the same legal footing with respect to their rights to the property. She stated that Monkeybrains had a prescriptive easement.

Chris, a longtime friend of Alex and Rudy from Monkeybrains, talked about their contributions to the community. He also noted that they continue to hire ex-felons in order to give them a second chance.

Jay Martin, a friend of the Mission Greenway, stated that the letter was entirely appropriate. He asked the Board to approve it.

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John Wadsworth thanked the Board for its proactivity. He stated that he lives at 907 Treat Ave. He noted that he was not allied with any side. He proposed forming a Citizen Advisory Committee to help resolve the issues and offered his skills as an attorney. He also asked if there had been environmental testing of the soil as there could be heavy metals at the location given the history of the railroads using it.

Laura Campbell stated that she was an attorney for the owners of Parcel 36B, which signified 1/3<sup>rd</sup> of Parcel 36. She stated that the letter was asking the municipal agencies to intervene, which would impact her clients' ownership rights. She objected to the letter on jurisdictional grounds and stated that ownership disputes should be adjudicated by the court system.

### **ADJOURNMENT.**

There being no further business, President Swig adjourned the meeting at 6:55 p.m.

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

<https://sf.gov/meeting/june-7-2023/board-appeals-hearing-june-7-2023>

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

[https://sanfrancisco.granicus.com/player/clip/43861?view\\_id=6&redirect=true&h=c480c7c5ebc8eb9ba93f3f4832012b68](https://sanfrancisco.granicus.com/player/clip/43861?view_id=6&redirect=true&h=c480c7c5ebc8eb9ba93f3f4832012b68)