

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

DRAFT MEETING MINUTES – WEDNESDAY, AUGUST 14, 2024

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 Jose Lopez, Vice President Alex Lemberg (legally known now as Alexis Levy), Commissioner Rick Swig, Commissioner John Trasviña, and Commissioner J.R. Eppler.

Jen Huber, Deputy City Attorney, Office of the City Attorney (CAT); Corey Teague, Zoning Administrator, Planning Department (PD); Kevin Birmingham, Acting Chief Building Inspector, Department of Building Inspection (DBI); Tate Hanna, Legislative Affairs Manager, 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: None.

(3) **ADOPTION OF MINUTES**

Discussion and possible adoption of the July 17, 2024 minutes.

ACTION: Upon motion by Commissioner Trasviña, the Board voted 5-0 to adopt the July 17, 2024 minutes.

PUBLIC COMMENT: None.

(4) APPEAL NO. 24-041

ALEX PLAUM and CYNTHIA SMUZYNSKA, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	575 Belvedere Street. Appealing the ISSUANCE on June 20, 2024, to Daniel Buza, of an Alteration Permit (add one AC unit at flat roof at middle of roof; AC unit weighs approximately 300 pounds; Permit Application No. 2016/0826/6097 shows 2x10 roof joist sistered to existing roof joist). PERMIT NO. 2024/06/18/4755. FOR HEARING TODAY.
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ACTION: Upon motion by Vice President Lemberg (Levy), the Board voted 5-0 to grant the appeal and issue the permit on the condition it be revised to incorporate the conditions listed in the agreement submitted by the parties for the hearing. This motion was made on the basis that the parties came to an agreement that is code compliant.

SPEAKERS: None.

PUBLIC COMMENT: Georgia Schuttish stated that she was involved with Appeal No. 16-153, a case where the Board of Appeals did not allow an air conditioning unit on the roof and instead stated it should be in the yard. Ms. Schuttish suggested that this should be an objective standard considered by the Board.

(5) SPECIAL ITEM

An informational presentation by the Planning Department and the Department of Building Inspection on Assembly Bill (AB) 1114, which became effective January 1, 2024. AB 1114 regulates post entitlement phase permits. This presentation will include an overview of the bill and San Francisco's implementation approach.

SPEAKERS:

Tate Hanna, DBI.

Commissioner Trasviña asked Mr. Hanna if the City made a presentation, provided input, or testified for or against the Bill before it was enacted. Commissioner Trasviña noted that the changes in AB 1114 have a direct and dramatic effect on the residents of San Francisco and the cases that come before the Board. He stated that the Bill resulted in less oversight of DBI's decisions and fewer cases before the Board, because it took away appeal rights. He asked Mr. Hanna how DBI educated the general public, not those submitting building permit applications, about the changes to the law. Commissioner Trasviña stated that the discussion should have taken place while the Bill was being considered as the Board was a stakeholder and the Bill affects the public's right to appeal. He asked President Lopez how the Board could be apprised of legislative matters that affect the Board's work. He stated that he did not believe the public was well-served by the law because it took away their appeal rights.

Commissioner Swig recommended that Mr. Hanna update page two of the written presentation to clarify whether the timelines to approve or deny a permit were based on “calendar” or “business” days. He echoed Commissioner Trasviña’s concerns and stated that the legislation was broad brushed given the differences in the individual neighborhoods and districts in San Francisco. Commissioner Swig also asked for clarification on whether the new law would invalidate code provisions that place restrictions on projects, such as mid-block open space requirements.

Commissioner Eppler asked DBI to expand on the definition of “designated housing project” for the benefit of the public. He asked if it included an Accessory Dwelling Unit. He stated that it would be good to know the volume of housing projects that the Board previously had which would no longer be eligible to be appealed.

President Lopez noted that, moving forward, there would be a number of projects that the Board of Appeals would not see. He asked DBI to provide information on the volume of projects subject to AB 1114. In addressing Commissioner Trasviña’s question regarding how the Board could be apprised of pending legislation that affected the Board, President Lopez stated that it would be fruitful to keep the discussion open with Mr. Hanna. He also stated it might make sense to have a broader and analogous conversation with other departments that have cases before the Board so that pending legislation, which may impact the public’s right to appeal, could be highlighted when appropriate.

PUBLIC COMMENT: Georgia Schuttish stated that she thought the public did not know the meaning of AB 1114. She stated that she hoped the Board would let people know about this law.

Sue Hestor stated that the Board members made very good comments. She further stated that she was struggling to understand the magnitude of the changes that would result from this legislation. She predicted that the volume of hearings would decrease at both the Planning Commission and Board of Appeals. She asked the Board to have a full informational hearing on this subject after Labor Day so that the public could be informed about the law.

(6) REHEARING REQUEST FOR APPEAL NO. 24-032

Subject property at 670 Shotwell Street. Beth Miles, Permit Holder, is requesting a rehearing of Appeal No. 24-032, MIKI CRISTERNA and ART CRISTERNA vs. DEPT. OF BUILDING INSPECTION, PLANNING DEPT. APPROVAL, decided June 26, 2024. At that time, upon motion by Commissioner Trasviña, the Board voted 5-0 to grant the appeal and revoke the permit on the basis that it was not properly issued because DBI lacked understanding about the impact the permit would have on the appellants. **Appellants:** Miki and Art Cristerna. **Permit Description:** remove one existing exterior door, remove one existing interior door; infill openings to match existing; install one new exterior F.G. single light door; install one new 4" x 6" pocket door, interior; install one new 2" x 6" swing door; interior New 6-foot fence in rear yard. **Permit No.:** 2024/04/09/9596.

ACTION: Upon motion by President Lopez, the Board voted 5-0 to deny the rehearing request on the basis that there was neither new evidence nor manifest injustice.

SPEAKERS: Laura Strazzo, attorney for requestor; Miki Cristerna, appellant; Corey Teague, PD; Kevin Birmingham, DBI.

PUBLIC COMMENT: Carmen Cordovez and Nancy Zeches spoke in support of the requestor.
David Serrano Sewell and Betsy Nolan spoke in support of the appellants.

ADJOURNMENT.

There being no further business, President Lopez adjourned the meeting at 6:34 p.m.

The supporting documents for this meeting can be found at the following link:
<https://www.sf.gov/meeting/august-14-2024/board-appeals-hearing-august-14-2024>

A video of this meeting, can be found at the following link:
https://sanfrancisco.granicus.com/player/clip/46707?view_id=6&redirect=true

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