



DEPARTMENT OF BUILDING INSPECTION

City and County of San Francisco
1660 Mission Street, San Francisco, California 94103-2414

ACCESS APPEALS COMMISSION

MINUTES

Wednesday, February 14, 2007

1:00 P.M.

City Hall

1 Dr. Carlton B. Goodlett Way, Room 416

1. CALL TO ORDER AND ROLL CALL

The regular meeting of the Access Appeals Commission was called to order at approximately 1:15 p.m. by President Brown.

COMMISSION MEMBERS PRESENT: Ms. Alyce Brown, President
Ms. Roslyn Baltimore, Vice-President
Mr. Arnie Lerner, Commissioner
Ms. Enid Lim, Commissioner

CITY REPRESENTATIVES: Mr. Neil Friedman, Senior Building Inspector,
Secretary to the Commission
Ms. Susan Pangilinan, DBI, Recording Secretary
Ms. Elaine Warren, Deputy City Attorney
Ms. Doris M. Levine, Court Reporter

221 MAIN ST. REPRESENTATIVE: Mr. Michael Knauff

2. PUBLIC COMMENT:

There was no public comment.

3. REVIEW OF COMMUNICATION ITEMS:

There were no communication items.

4. CONTINUED APPEALS:

- a) **Appeal No. 07-01 (PA#2006/1117/8047)**
221 Main Street

Michael Knauff

This is an appeal of the denial of an Unreasonable Hardship Request For the lack of the required 8'2" clearance into the parking garage of a downtown high-rise building. The Department has previously approved parking hardships for this building based on Administrative Bulletin AB-007 and on the fact that alternative

8'2" covered van parking was available within 300' horizontally, of 221 Main Street. The 300' was previously measured as a radius, measured as an accessible, straight line distance. This case was continued on January 10, 2007 in response to the Commission's request for more information.

Following are partial, non-verbatim meeting minutes for the 221 Main Street case #07-01. The case was preceded by a Department presentation regarding some accessibility building code issues.

Department of Building Inspection staff attended today's hearings to discuss and provide department interpretations and enforcement policies for the following Accessibility Regulations:

California Building Code Chapter 11B sections:

1120B: Floors and Levels,

1130B: Parking Structures

1131B: Passenger Drop-Off and Loading Zone

SFBC AB-007.97 High Top Van Parking Equivalent Facilitation (8' - 2" vertical clearance)

Chief Building Inspector William Wong of the Commercial Plan Check Division, provided handouts for his presentation of department interpretations and enforcement policies on the aforementioned regulations and also discussed issues with regards to applicants who file for hardship as prescribed under the exceptions paragraphs of the code sections under discussion.

The 221 Main Street case #07-01 follows:

Michael Knauff said that since the last hearing, the building owners have reinstalled the van accessible parking signage at the garage entrance. He presented images of the signage and said that the images were taken at the top of the driveway access. Also, a close up photo of the sign was shown. He stated that the photos were a little grainy but that he could testify that the signage is very legible from the street.

He also said that he had forwarded the photos to Neil Friedman a few weeks ago and wanted to point out a couple of things based on the comments from the Commission from the last hearing and also wanted to reiterate a couple of items that supported his request for approval of the hardship. AB-007.97 is more complex of an issue than the current writing of the bulletin actually allows to be understood.

One of the comments at the Mr. Knauff's last appearance was a question about what the actual distance was from 221 Main to the garage at 75 Howard. He had a question as to whether the distance could be measured from an entrance or if it could be the building's property line. The distance is actually 800 feet. But, measured from the edges of the property, it is less than 500 feet.

Mr. Knauff stated that the signage was reinstalled per the approved appeal in the year of 2003. There is a passenger unloading zone in the front of the building that is striped in white by the DPT. In addition, there are two locations marked on the plans where there are accessible parking stall spaces with blue curbs.

Mr. Knauff mentioned that the 221 Main street garage is actually a private garage that is secured by key card access. Each of the spaces is leased out to a particular tenant in the building. So, from that stand point it is not a publicly accessible garage.

Mr. Knauff has field verified the accessible parking at 75 Howard Street and has a diagram to illustrate it. It is on the same level as the sidewalk and has the correct unloading zone next to the space. With respect to some of the less clear items in AB-007, and given that the 221 Main garages is a private garage and given the previously approved appeal, he feels that at this point, to undergo any sort of renovation or investigation into trying to rectify the lack of clearance, is a hardship.

Commissioner Brown said that it was her understanding that it does not matter whether it was a public or a private garage. The tenants are allowed to lease a space. That would preclude any tenant who drives a high top van. She did not think that the law reads that way.

It says that one must have accessible parking in the building and if there is an 800 foot distance between the garages and the administrative bulletin states 300 feet for the path of travel, there is a problem.

Michael Knauff said that this is the closest garage that would have public van accessible parking. He thinks there should therefore be some leeway in the reading of the 300 foot rule . Per the previous diagrams they are within a 300 foot radius. The pool of parking in the area does not allow for anything else.

Commissioner Brown said that one could not tell whether the 75 Howard Street space was being used for 221 Main.

Michael Knauff said that the 75 Howard garage is actually a public garage with posted rates and so the van accessible space is a public space. Any guest or person who doesn't have a space in the 221 Main building would be required to use a public space.

Commissioner Brown asked for a definition of a public and private space. To her, a garage is a garage and has to have 'X' amount of spaces for disabled and 'X' amount for vans.

Mr. Friedman said she is correct.

Commissioner Brown said that therefore, she doesn't understand why Mr. Knauff is making the distinction (between public and private garages.)

Michael Knauff said that he wanted to then raise another question regarding some of the wording that is in the administrative bulletin regarding the 8'-2" vertical clearance, regarding when a garage meets all of the other accessible regulations. He pointed out that there is a passenger unloading zone at the front of the building.

Commissioner Brown asked how the van would be able to park there, since the zone is only for loading and unloading.

Michael Knauff said that one item that the commission brought up last time was the possibility of having a street space dedicated for van accessible parking, similarly to how there are two street spaces currently dedicated to accessible spaces.

Commissioner Brown said that there are blue zones but also that she thinks the code says that they have to be covered to the entrance.

Michael Knauff said perhaps that per the administrative bulletin, examples of other building locations include covered loading dock areas and covered passenger zones. To him, the wording reflects that those are just a few of several options that could be entertained or approved by the commission or by the department.

Commissioner Brown expressed confusion over Mr. Knauff's interpretation of the code and asked Mr. Friedman for his opinion.

Mr. Friedman said that going back to the question about whether it's a public or private garage, the issue is that if there are parking spaces provided, then some must be accessible. What Mr. Knauff is suggesting is the possibility of creating a blue zone at the sidewalk for vans. The Commission could consider his request for hardship or perhaps they could look at something similar to what was done for the medical facility appeals case on Geary Boulevard from the end of last year. There, a canopy was provided over a blue zone. The Bureau of Street Use and Mapping would have to approve that (and did, in the Geary Boulevard case.)

Michael Knauff said that he was trying to begin a dialog that helps to understand the spirit and intent of the building code. They have a structural problem at the entrance to the garage. From the stand point of the building owner, this is a big ordeal to restructure a grade beam of a 16 story building to accommodate the 8'2" clearance. He would like to explore all of the opportunities and provide some sort of equivalent facilitation for the building usage.

Commissioner Baltimore said that she had several issues. For her, the blue zone is not equivalent simply because anybody with a placard can use it. In the local newspaper there are reports that there are numerous disability placards in use in vehicles in San Francisco. So, she is not sure that a blue zone will satisfy the circumstances. The second issue is that she doesn't know what the costs are for compliance.

Michael Knauff said that the costs were originally done when the appeal was done in 2003. The cost was reviewed with a contractor and at that time was approximately 2 million dollars.

Commissioner Baltimore asked how they arrived at that amount and what had to happen in order to do the project.

Michael Knauff said that there is a structural grade beam and a structural beam for the building along with some main sprinkler and plumbing lines that would have to be relocated.

Commissioner Baltimore said that in terms of a viable alternative, 800 feet is quite a distance and one of the alternatives that the AAC has looked at in the past includes some form of transportation from the garage paid for by the building as an equivalent facilitation. She said that she doesn't know how the other commissioners feel, but that they did look at that (equivalency) in another circumstance, and that to her, that is the only thing that makes sense. In other words, the person would have to drive their own van and park it in another garage. From there they would have to have the means to get them back to the (221 Main) building.

Regarding a public garage, if it is open to the public, that space may or may not be available when someone with a van comes there. That is the problem that she has with a public garage. In a private

garage, the space could be set aside directly for this (221 Main) building. She is pretty sure that will satisfy the conditions. She believes there should be some sort of transportation (from that garage back to 221 Main.) but does not think that there will have to be some reasonable assurance that the person does not drive there and finds out that something is not there.

Commissioner Lerner said that Mr Knauff mentioned there were some surface parking lots that are closer than the garage at 75 Howard St.

Michael Knauff said there is a surface lot across the street and there is a surface parking lot directly to the south of the building.

Commissioner Lerner asked if they were for public parking and did 221 Main explore leasing a space from that surface parking lot since that lot is closer than the (75 Howard) garage.

Michael Knauff said that he did not believe that the building ownership has explored that.

Commissioner Lerner said that other applicants have actually leased a space such as the AAA building. There was a state agency across the street from which they actually leased a space. So it seems like Mr. Knauff should explore that and come back with documentation that he tried to do that before he went to the 75 Howard St garage. Commissioner Lerner reiterated Commissioner Baltimore's point regarding the lack of assurance of an available space at the parking garage.

Commissioner Lerner stated that regarding the sign, he knows that the code talks about the sizes of letters viewed from distances and that there is a chart. He asked if the sizes of those letters are based on the distance that someone approaching the building would be viewing the sign so they could actually read it. He stated that he knows that it's a lot smaller than the 7 foot (reading distance) letter size.

Michael Knauff said that the sign was actually built off of the template that was used as part of the pre-application meeting and he believed that there was a copy of that included in the packet that was originally given to the Commission. So, yes it was built to the standards of the code.

Commissioner Lerner said (again) that there is a chart that says that from this distance the letters should be this height, so somebody could actually read it. He asked if Mr. Knauff measured the distance that somebody sitting on the street would be to look at the sign and if that letter height was the right height.

Michael Knauff said that he did not actually measure the distance himself, but was taking the documentation from the pre-application hearing that was read and approved back in 2003.

Commissioner Lerner said that Mr. Knauff just can verify that the letter size is big enough that it can be read from the street.

Michael Knauff said that he could do that.

Commissioner Brown said that if you look at it, from the distance that this photo was taken, it is barely legible. She can read "7 inch clearance", but it is barely legible. So, even though it may conform with the template he has to take into consideration the distance that he is placing it from the street. It obviously needs to be larger.

Michael Knauff said that he would also like to make the point that this is a digital photograph that then was printed on a color photo copier so perhaps it is larger and more legible in person.

Commissioner Lerner said that the surface lot across the street is required just like any parking garage to provide a certain number of van accessible spaces and it is actually much easier for them to create a new one because it's just a matter of stripping and there might be more possibilities there than in this garage (75 Howard St). Whether it needs to be leased it or not, is not really covered in the administrative bulletin.

Commissioner Baltimore said the reason I think they did not use that (lot) initially is because it's not covered. The Commission could grant an exemption for that issue.

Commissioner Lerner said that once they (van users) get out of the covered garage, they are outside anyway.

Commissioner Baltimore said that she is not arguing the point, but is just saying that's maybe why they did not look at it (use of the lot) initially, because the Commission asked for an equivalent which would be a covered garage. She would agree that she would rather see them (221 Main van users) go across the street than go elsewhere.

Commissioner Brown asked how heavy the traffic is and would that be significant.

Michael Knauff said that Spear Street is a one way street and does not have very heavy traffic

Commissioner Brown said that there is consideration of the crossing, the distance, the canopy and the covering. Certain things can be set aside but it seems to her that if she were getting out of a van and it were raining, then she would be drenched by the time she crossed that street and so there is still a problem.

Commissioner Baltimore said that she would rather be drenched than not have a parking space and that she thinks that there are certain accommodations and or things that the Commission can grant.

Commissioner Lerner said the issue is whether or not they can dedicate that space to the building or not and that is not in the bulletin but, do they want to require it?

Commissioner Brown said she thinks they made a point regarding the dedicated parking space the last time and she thinks that Mr. Knauff said that there was an agreement, a verbal agreement, but that there was nothing in writing.

Michael Knauff said that they do have a written agreement

Commissioner Lerner said that it was an agreement to use the space but it is not an agreement to dedicate that space.

Commissioner Brown said she thought that that was one of things that the Commission wanted.

Commissioner Baltimore said that from her personal standpoint, going forward, she would rather see them trying to work something out at one of the surface lots and that could be dedicated but (currently) they are using a public parking garage that is 800 feet away. She thinks that it is too far and that the needs (of the public) would be better served with the surface lot. She would also be careful about making it precedent setting because that's something that needs to be reviewed on a regular basis.

Mr. Friedman said that he would like the Commissioners to use the ‘request to speak’ button on their consoles. What he has to say (now) is out of order in relation to what’s going on now, but instead deals with an issue from 5 minutes ago. City Planning (DCP) requires spaces in a building to be dedicated to that building, based on square footage of the building. The Commission may be injecting some issues here that take authority away from the (DCP) domain. That is to say, when the Commission asks an appellant to lease a space in another (second) building when that (second) building only has a certain number of parking spaces for its own use, it may subtract a space from that (second) building that is otherwise required by DCP.

Commissioner Lerner said he thinks in this case that the Commission is talking about a public lot. If you go to a surface mounted lot and try to lease a space, they will have to take two of their regular spaces and create a van accessible space so that they are not in violation of the public spaces that are required.

Mr. Friedman said that the surface lot, unless it is legally connected to a building (which usually is not the case) can do what ever it wants as long as the required number of accessible spaces are maintained.

Commissioner Lerner said that if someone leases one of those spaces then you have changed that ratio and they have to find another one. That’s what he meant by stating that they would have to go and take two more (spaces), so it is cheaper for them to lease two spaces. In other words, it takes two regular surface mounted spaces to create a new van accessible space. Or, do the structural changes. That’s ideally what should happen, but it is not in the bulletin.

Commissioner Baltimore said that she just wanted to get it down, because there is some work that Mr. Knauff needed to do, so she was going to ask him whether he understood what the Commission wanted in terms of the surface lot etc. She thinks that what it’s ‘coming down to’ is that the City’s policy of “no cars downtown” is going to affect this ruling. So, the Commission may have to take a very serious look, because the Supervisors have made it very clear that they want to discourage driving in downtown and that it’s hard to build parking in downtown San Francisco. There is a double problem here.

Michael Knauff said that he wanted to state that the structural reconfiguration of the building to gain another foot (of clearance at the parking garage entry) is a financial and physical hardship. His understanding is that the next course of action would be to explore leasing a parking space from the surface parking lot to have a dedicated van parking space for 221 Main St. In looking at a whole pool of accessible parking spaces in the general vicinity of 221 Main, he asked how 221 Main’s leasing of another space then creates another hardship for somebody else.

Commissioner Lerner said that he could answer that. He suggested that they create a new van accessible space in that lot. They would have to take one or two regular spaces and create a new van accessible space in order to not take away a van accessible space from somebody else that the lot is required to provide.

Commissioner Brown said that she is sure that wherever 221 Main goes (for an additional space), that it will cost a certain amount to lease, (but will be much less than the 2 million dollars that raising the beam would cost.)

Commissioner Lerner said that it is just easier on the surface (to create a space) because there is no structure or columns to move. It’s just paint and the loss of regular parking fees.

Commissioner Brown wondered if the Commission ever figured the cumulative dollars spent in that building in the last 3 years. She remembered that Mr. Knauff said that the cost of the renovation in question was 220 thousand dollars.

Mr. Friedman said that the 3 year total cost of renovations was not included in the summary information about this case, because this one permit exceeded the threshold value above which full accessible upgrades were required.

Michael Knauff said that the building owners response would be that the money that is put out of pocket to build out a space is then built back into rent coming back in so its not really fair then to settle one particular tenant's leasing arrangements based on the fact that that project would trigger a 2 million dollar upgrade to a parking garage.

Commissioner Lerner said that the 100 dollars a month (reference?) to lease that space could just be spread out among the other tenants. That's cheaper than a 2 million dollar renovation of the building.

Commissioner Brown said a point of information is that the Commission always looks at the three year cumulative remodeling dollar amount. They are not doing that specifically for this renovation but that's (usually) a rule of thumb here. She asked if Mr. Knauff had any other questions.

Michael Knauff did not have other questions. He said that some general feed back about the biggest concern from the building owner's stand point is the structural upgrade. He thinks that the owner would be willing to embrace the Commission's directive to pursue leasing a space and creating a van accessible space from a surface lot.

Commissioner Brown asked if any Commissioner had a motion.

Commissioner Baltimore made a motion that the Commission grant the hardship with the conditions that the property owner provide the van accessible parking sign with the appropriate size lettering as prescribed by the building code, and that the property owner obtain a lease agreement with a dedicated van accessible space arrangement specifically for 221 Main St. and that the path of travel distance does not exceed 300 feet for a straight line measurement.

The Commission passed the motion by a vote of 4-0. (Note that there are only 4 sitting Commissioners at the time of this meeting.)

5. COMMISSIONERS' QUESTIONS AND COMMENTS

(DISCUSSION)

Commissioner Lerner asked if there was any development on the consent calendar process.

Deputy City Attorney (DCA) Elaine Warren said that she was working on something and sent it over to Mr. Friedman to have a look at it. She believes it is on the calendar to discuss at the next meeting. It should go out in about a week or so.

The Commissioners asked about the whereabouts of the 700 forms that need to be filed by April 1.

DCA Warren mentioned she would follow up with Mr. Friedman on this.

Commissioner Brown said that the Commissioners are to be appointed to 4 year terms.

7. PUBLIC COMMENT

There was no public comment.

8. ADJOURNMENT

There being no further business the Access Appeals Commission adjourned at 3:15 P.M.

Neil Friedman
Senior Building Inspector
Department of Building Inspection
Secretary to the Access Appeals Commission

