



DEPARTMENT OF BUILDING INSPECTION

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

ACCESS APPEALS COMMISSION MINUTES

Wednesday, July 25, 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 1:07 p.m. by President Brown.

COMMISSION MEMBERS PRESENT: Ms. Alyce Brown, President
Ms. Roslyn Baltimore, Vice-President
Mr. Arnie Lerner, AIA, Commissioner
Mr. Walter Park, Commissioner

COMMISSION MEMBERS ABSENT: Mr. Jurgen Dostert

CITY REPRESENTATIVES: Nancy Curvino
Acting Secretary to the Commission

Ms. Susan Pangilinan
Recording Secretary

Ms. Elaine Warren
Deputy City Attorney (DCA)

Ms. Doris M. Levine, Reporter

OWNER'S REPRESENTATIVE: Ms. Marilyn Jaeger
Owner, 3384 Sacramento Street
Ms. Esther Arnold, Designer

State Compensation Insurance Fund
1275 Market Street
Michael Garcia, Architecture/Design

2. PUBLIC COMMENT:

There was no public comment.

3. REVIEW OF COMMUNICATION ITEMS:

A letter dated July 22, 2007 was received by Neil Friedman on July 24, 2007 from Kevin W Jensen (DPW) regarding 3384 Sacramento Street. This letter was distributed prior to start of the meeting and discussed at the time the case was heard.

4. CONTINUED APPEALS:

a) Appeal No. 06-05 (PA#2006/0901/1267)
3384 Sacramento Street

Marilyn Jaeger

Ms. Nancy Curvino presented the summary of the appeal.

Marilyn Jaeger stated that she did some investigation and review with DPW, regarding the lift and sidewalk.

Ester Arnold stated she reviewed lift information with Neil Friedman and also had Pacific Access come to the building site. The lift would have to travel around the corner. DPW said this wouldn't work (see letter dated 7-22-07 from Kevin W. Jensen) The suggestion to explore the options of the common stairway or basement space are not workable solutions.

Marilyn Jaeger mentioned that the project is on the 14th month and during this time she has sold her personal residence and opened a new spa space in Oakland

Commissioner Brown had more questions about the lift on Sacramento St.

Ester Arnold and Marilyn Jaeger both pointed out that given the letter from Kevin Jensen, that the lift was not going to work

Commissioner Baltimore asked for a list of the services that are provided at the spa and how Marilyn Jaeger operates now .The existing spa operating now is located 6 steps above the sidewalk.

Ms. Jaeger said that clients are booked 2 months in advance and that they do facials and waxing.

Commissioner Baltimore asked how a client is accommodated and if a potential client is screened. The options of a referral to the spa space in Oakland or referrals in the area are not acceptable solutions.

Commissioner Baltimore asked if Ms. Jaeger would consider house calls at the same rate.

Ms Jaeger said, "yes," and that she would train her staff to mention to potential clients that they are located above street level

Deputy City Attorney Elaine Warren brought up the fact that the Department of Building Inspection would not be able to enforce how a business operates.

Commissioner Lerner mentioned that special needs could be discussed on the owners' web site. Also asked to be reminded of why the platform lift can't be opened without going around the corner.

Ester Arnold mentioned the fact that a tower would be needed to be placed on the side walk and is not allowed. That is why they would have to wrap it around the corner.

Commissioner Park said the case is new to him and that he needs to read the past minutes.

Ester Arnold said she gave cost information to Neil Friedman.

Commissioner Park said \$50,000 seemed high.

Ester Arnold said she got the cost from Pacific Access Contractors and this did not cover the concrete work.

Commissioner Baltimore said that they should place signage and some form of communication device at the building entrance and this could be checked by the Building Department.

Commissioner Brown asked if a chair could be installed on the railing as opposed to a platform.

Commissioner Lerner mentioned that a tower would still have to be installed.

Commissioner Park mentioned that the letter from DPW is 2 days old and that a cut off time period for information brought before the commission is needed but that he is leaning towards a UHR.

After consideration of the issues presented in this matter, the Commission voted 4-0 on a motion by Commissioner Baltimore (Commissioner Dostert was absent) to grant permission for the completion of the 'spa' with an unreasonable hardship and equivalent facilitation due to physical constraints, and with the conditions that:

- 1) signage is installed at street level at the salon indicating that there is a lack of accessibility due to stairs (refer to AAC Secretary Neil Friedman for wording);**
- 2) an intercom for communication to the office is installed at street level;**
- 3) programmatic notification will be provided by the owner by telephone, brochures, and web site, if available; the notification would state that for persons not able to use the facility, the same services can be provided at the same costs at a site of the customer's choosing (subject to limitations.)**

Commissioners Brown and Lerner mentioned to state that the entrance is not wheelchair accessible and that if people have special needs they can be accommodated.

Commissioner Baltimore mentioned that the exact signage wording should be worked out with Neil Friedman.

Commissioner Park asked to move on the motion made by Commissioner Baltimore

Vice-President Baltimore	yes
Commissioner Lerner	yes

Commissioner Park yes
President Brown yes

b) Appeal No.07-07 (PA# 2007 0410 8451)
1275 Market Street

Michael Garcia

Nancy Curvino read the case summary into the record.

Commissioner Brown mentioned that the secretary has gone to the site and verified that all the alarms, signage and mirrors are in place as per the conditions required in the last appeal.

Commissioner Brown then asked that a motion be made to grant the appeal again.

Commissioner Park asked what the basis for the appeal is since he wasn't there to hear the case last time.

Commissioner Lerner mentioned that he also was not present.

Mr. Michael Garcia explained that an appeal was granted for the accessible parking spaces that allow the passengers to travel behind the parked vehicles in their dedicated path of travel to the accessible elevator lobby on two floors of the parking garage. They have installed a series of mirrors, audible alarms and raised detectable warning systems on the floors. It has been in continuous use and is successful. The question he wanted to ask was if it has been in continuous use successfully does it need to be placed on the consent calendar? Mr. Garcia mentioned he wasn't clear on what the consent calendar really was.

Commissioner Baltimore asked the DCA to describe a consent calendar.

Elaine Warren (DCA) described the concept of the consent calendar as cases that came before the Commission once before and are problems that are unlikely to go away. The consent request would result in fewer documents, a quicker process and one that could be automatically approved if there are no objections from the Commission. Also, the appellant would not need to be present. The Commission has yet to decide how long a time limit will be set for the consent calendar (decisions), because buildings change.

Commissioner Park said that it is a large and important building and that he would like to see it back on the consent calendar for 3 yrs. And would be happy to see it approved for the consent calendar.

Commissioner Brown asked if there was a motion.

Mr. Garcia asked if the decision gets granted on a 3 year basis is there are any filing fees That need to be paid each time it goes on the consent calendar.

Elaine Warren (DCA) said it could be a reduced fee and will speak with Neil Friedman about it.

Commissioner Park said he and the other Commissioners would work on a streamlined process and fee structure with Neil Friedman.

Commissioner Park moved on the motion that they grant the appeal and that the case be put on a consent calendar for 3 years or such time that any code change would affect access under this case.

Vice-President Baltimore	yes
Commissioner Lerner	yes
Commissioner Park	yes
President Brown	yes

c) **Appeal No.07-08 (PA# 2007 0410 8451)**
1275 Market Street

Michael Garcia

Nancy Curvino read the case summary into the record.

Commissioner Park asked what is the basis for the appeal.

Mr. Garcia said that the building's parking garage has a maximum 8'-0" opening entrance into the garage with mechanical, plumbing waste lines and electrical at that elevation. The following issues were explored in 2005: the cost to alter the area was \$380,000; alternate parking at 1355 Market St. (the SF Mart) was no longer an option; using the existing loading dock at 1275 Market that opens on 9th Street (this would be a problem due to the high volume of daily use traffic both at the dock and on 9th Street.) Mr. Garcia also mentioned that the Ramada Inn, which is near by, was sold recently and that they haven't met with the new building owners about the possibility of entering into a lease agreement with them.

Commissioner Brown asked about the possibility of a canopy with a blue zone.

Mr. Garcia said there is no passenger zone parking. The building is built to the edge of the property line and there is limited meter parking. He mentioned that they asked for a yellow zone once and they were given a red zone instead.

Commissioner Brown asked if there are any blue zones in the area.

Commissioner Brown asked if they could shave off 2 inches of the structural beam.

Mr. Garcia said that even if they did that the users would have to cross a drive aisle to get to the elevator.

Commissioner Park asked what the occupancy of the building is.

Mr. Garcia said the building (use) is a type 'B' and has 1,600 occupants with 158 parking spaces and is not able to park a high top van.

Commissioner Park wants to see some proposal for equivalency and alternatives for a high top van parking.

Ms. Mabel Fong (representing the owner) stated that 1275 Market only has State vehicles parked or invited guests. Also, the owner does not see a long term lease agreement being any benefit for the State Compensation Fund and doesn't want to enter into a long term lease.

Commissioner Baltimore wants to see the stated options as well as others to be more thoroughly explored and that the case be continued.

Ms. Mabel Fong said maybe it would be different if they entered into a lease agreement for a high top van and will ask the consulting firm how they would arrange to do that.

Commissioner Lerner asked how long they have been in the building why they couldn't get an agreement with the SF Mart or others.

Commissioner Park wants to see them come back with a very strong proposal for alternative parking and provision for high top van requirement at the next meeting.

Commissioner Brown agrees with what Commissioner Parks said.

Mr. Garcia said that this particular building goes out of their way to hire disabled and has a high percentage of disabled working there. In the past 10 years there hasn't been a need.

Commissioner Lerner doesn't favor a blue zone.

Mr. Garcia said that the \$380,000 cost may be the only viable way to meet the requirement. He asked if a hardship would be granted even though people would have to cross the drive aisle.

Commissioner Parks said he wouldn't be opposed to it.

Commissioner Baltimore asked that the appellant come back after other alternatives are explored including a package with all the building construction costs, and what the path of travel would be.

Commissioner Brown wants to meet at the building site so the picture becomes clear.

Mr. Garcia said that he thinks they could be ready by the August 8th meeting and will be prepared to show drawings.

Commissioner Park asked if they needed to seek funds.

Mr. Garcia wanted to see what gets approved first before they seek funds.

Elaine Warren (DCA) said a 15 day notice is needed for off site locations.

Mr. Michael Garcia said he would accept the August 22 date for the hearing.

Commissioner Brown asks that a motion be made to continue the appeal on August 22nd

Commissioner Park seconded the motion.

Vice-President Baltimore	yes
Commissioner Lerner	yes
Commissioner Park	yes
President Brown	yes

COMMISSIONERS' QUESTIONS AND COMMENTS:

Commissioner Brown suggested that Commissioner Enid Lim be honored at the next meeting, August 8th, to thank her for her civic duty.

Commissioner Park wants to ask the Mayor to give Commissioner Lim a proclamation.

Commissioner Brown asked the secretary to direct Mr. Friedman to ask the Mayor for a proclamation and also invite Commissioner Lim's daughter to the next meeting.

Commissioner Park added that in regard to the proclamation, this is in recognition of her life long service to her community of San Francisco and her advocacy for people with disabilities.

Commissioner Baltimore said the next regular meeting at City Hall would be best to honor Ms Lim.

Commissioner Park had some questions and asked if we adopt our own by-laws rules or are they adopted by the Building Inspection Commission.

DCA Elaine Warren said the Commission adopts their rules and regulations the Commission. There are some rules that are adopted from the Building Code and no contrary rules to this code could be adopted by the Commission.

Commissioner Park was surprised that the Commissioners' were being 125.00.

DCP Elaine Warren said she believed this was in the Building Code.

Commissioner Park asked what the staffing level for the AAC. Is there a certain number of secretarial staff?

Ms Curvino(acting secretary) named the staff of the DAS as Susan, Raymond Berrios, Nancy and part time Rick Halloran.

Commissioner Park asked what fraction of the time is spent on the AAC.

Ms Curvino said that he should ask Mr Friedman about this staffing question.

Commissioner Park is concerned about the meeting minutes. He mentioned he had a brief discussion with the DCP before the meeting today. He also mentioned he drafted a letter to the Department heat but really wanted to discuss it with the staff before going over their head. He doesn't want to create some bureaucratic conflict that unnecessary. The letter basically said that there are no minutes that

have been produced for over a year. He said he looked at the web site and there are no minutes produced since January of 2003. He believes the publics' right to know is being ignored and that we are in violation of the SF Administrative Code because we are cover by the Sun Shine Ordinance in some way or other. He would like us to adopt a time line in regard to the publication of the minutes.

Commissioner Park wants to be current on all meeting minutes from now on because it provides guidance to the commissioners and that he wants the Commission to look at the draft of the previous meetings minutes and be able to comment on them He would like a goal set on a time line.

Commissioner Park said that according the Mayor's Disability Council the minutes took about 4 to 5 hours of staff time and were very detailed minutes.

Commissioner Park asked when the last minutes that the Commission has are.

Commissioner Park wants to come to some kind of agreement at the next meeting that yes they will go forward on some basis and some time period for catching up. Commissioner Park also mentioned that he realizes it's a lot of work but that maybe the department needs to get some temporary help.

Commissioner Baltimore urges Commissioner Park to work with the staff on getting the work done and believes the new Director is interested in this commission

Commissioner Lerner wants the minutes before the next meeting rather than 30 days because it's fresh on their minds.

Commissioner Park agrees that there are a number of councils and meetings that get the minutes within 10 days.

Commissioner Brown mentioned that maybe they could make a proposal to the Director that a person could be hired to help do the minutes.

Commissioner Park would like to have a summary for any case that is being heard or reheard.

Commissioner Lerner mentioned that he also would like to see more documentation because sometimes they are not there for the original hearing.

Commissioner Baltimore said that packets are needed at least one week in advance of the meeting and that materials should not be handed to us at the meeting.

Commissioner Parks said that he doesn't want any letters or documents related to the case in less than 5 working days before the meeting and draw the line at that..

Commissioner Brown understands why the rehearing would be easier for her because she was at the original hearing and also made a site visit.

Commissioner Baltimore would like to move forward. If a case is heard over a month ago she would like the old info resubmitted.

Elaine Warren (DCA) wanted to clarify that the by-laws Rule 4 that relates to meetings and in subsection F says a copy of the draft agenda shall be provided 14 days in advance with all the material. She mentioned the content wasn't clear. She asked if the Commissioners wanted it in the by laws she could amend the by laws.

Commissioner Park said at the next meeting he would like to made a motion to amend the bylaws with some of the document requirements and deadlines on a possible letter to the Director of the Department if they need some additional resources to get the minutes backlog cleared up.

Elaine Warren (DCA) suggested that ask through the chair that this be an item calendared for the next appropriate meeting.

Commissioner Brown agrees.

Commissioner Lerner wanted to make sure that when we meet on site there is a table and some chairs to review and discuss the case.

Commissioner Lerner wanted to know if any progress was being made in regard to getting the Commissioners on the list for free parking at the Civic Center garage. He mentioned that the names on the list were out of date commissioners and not up to date. He isn't clear on the process.

Commissioner Baltimore was unclear about the 125.00 and was this something that Commissioner Park wanted to discuss.

Commissioner Brown mentioned that she got a list from the BIC regarding the different commissions and sub committees showing the different amounts paid to each.

Elaine Warren (DCA) said that the BIC would need to recommend the amount the Commissioners get paid to the Board since all the changes go through the Board of Supervisors.

Commissioner Brown wanted to welcome Commissioner Park and also mentioned that she hasn't met Commissioner Dorsert yet.

6. PUBLIC COMMENT:

No public comment.

The meeting was adjourned at approximately 3:15 P.M.

These notes are an approximate summary of the Commission meeting.

Full transcripts of these meetings are available for the cost of transcription. Copies of the audio tapes are also available for the cost of making the copies.

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