



DEPARTMENT OF BUILDING INSPECTION

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

ACCESS APPEALS COMMISSION MINUTES

Wednesday, November 22, 2006

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 1:16 p.m. by President Brown.

COMMISSION MEMBERS PRESENT:

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

CITY REPRESENTATIVES:

Neil Friedman,
Secretary to the Commission
Ms. Susan Pangilinan
Recording Secretary
Ms. Elaine Warren
Deputy City Attorney
Ms. Doris M. Levine, Reporter

OWNER'S REPRESENTATIVE:

Ms. Marilyn Jaeger
Owner, 3384 Sacramento Street
Ms. Esther Arnold, Designer

2. PUBLIC COMMENT:

There was no public comment.

3. REVIEW OF COMMUNICATION ITEMS:

There was no review of communication items

4. ELECTION OF OFFICERS:

Commissioner Brown will be the next President. Commissioner Baltimore will be the next Vice-President.

5. NEW APPEALS:

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

Marilyn Jaeger

Neil Friedman presented the summary of appeal #06-05 for 3384 Sacramento Street.

Marilyn Jaeger stated that this was a skin care salon and that there are no 'spa' services or water treatments being provided. She stated that she would like to comply with the City's regulations. However, there are accessibility hardships and the building in question is on an historical register. She introduced her designer, Esther Arnold. She displayed several drawings and photographs of lifts that were investigated to overcome the accessible path of travel hardship. She stated that the lift would create problems with sidewalk encroachment as well as with the landing of the main entry stair of the building.

Ester Arnold went on to say that the property owner had purchased a unit in this building and would like to offer access to everyone, but that because of its historical status and because of preliminary discussions with the building's condominium owners' association, that there is probably going to be a problem with any sort of change to the external façade (in order to allow for accessibility.) The building is on a corner lot at Sacramento St. and Walnut St. Several different lifts were explored to provide a path of travel to the skin care salon at the main entry. External lifts all would have sidewalk encroachments that would create a pedestrian hazard, partly due to the corner lot situation. She noted that the 2nd means of egress would not be suitable for accessibility since it has 10 risers compared with 6 risers for the main entrance. Also, the 2nd egress stairway is narrow, is not owned by Ms. Jaeger and is a common egress, shared with another tenant.

As a business owner, Ms. Jaeger is doing this project on her own, at a financial hardship, partly due to the permit delay. She needs to open the business and have revenue so that she can comply with making the entry handicap accessible. (She would like to complete the project before addressing the path of travel at the entrance.)

Commissioner Lerner asked if there was any public comment. There was none.

Commissioner Brown asked if when the condominium was purchased, was the owner aware of the path of travel deficiency and was it discussed with the condominium owners' association?

Ms. Jaeger said that she did not discuss it because her space was already an existing salon in the condominium. Her current salon is 4 blocks away in the same neighborhood and actually has 25 steps up to the entrance. She was under the assumption that the accessibility condition would be 'grandfathered' into the building (at the new location) because she would be continuing the same use. The former owner (it was a hair salon) had led her to believe this as well. She also assumed that historical buildings in the neighborhood remained as they were.

Commissioner Brown stated that this building is not historical unless it has been listed as such.

Ms. Jaeger said that it is listed.

Commissioner Lerner said that he had called the Planning Department that morning and they had listed it as 'architecturally significant.'

Commissioner Brown asked if that were the same as historical.

Commissioner Lerner said that it is on a list so if they were trying to use the State Historic Building Code they would be qualified to use that.

Commissioner Brown asked if they have explored or gotten anybody other than Otis Elevator Company to come in and check (for options for lifts.)

Ms. Jaeger said that they had explored many companies and devices.

Commissioner Brown said that the only one I have in this packet is Otis Elevator Company.

Esther Arnold said that they have also been exploring and looking at examples that the city has been giving us but nothing has come up yet that does not encroach on the sidewalk. They are looking for a platform lift that does not encroach onto the sidewalk.

Commissioner Brown said that there are elevator consultants that could probably help them more than their contractor.

Ms. Arnold said that we also have an issue in that the basement is owned by someone else and that it would affect that tenant if there were a structural change to the main entry stairs in order to put in an elevator or platform lift.

Commissioner Brown stated that the AAC package mentioned that the homeowners association would not grant Ms. Jaeger a variance regarding the common area because the wheelchair lift would create a blockage at the stair.

Ms. Jaeger stated that she (later) asked the homeowner's association about using the main stair for accessibility, but that due to the access doors for the gas and electrical meters located at the top of the landing adjacent to her main entrance, the installation of a wheelchair lift would block access to the utility cabinets.

She further stated that she had not looked into relocating the utility meters because it would be detrimental to her as a business owner due to the lengthy process involved.

Commissioner Baltimore asked if she had included better photographs of the façade.

Ms. Jaeger stated that she did include photographs in the back of the packet

Commissioner Baltimore stated that she could not see how the lift would impact the lower space.

The Commissioners discussed the impact on the lower tenant which would be caused by a proposed lift at the stairs. They also discussed the 2nd means of egress.

Commissioner Brown discussed the previous uses of the upper condominiums.

Commissioner Baltimore stated that she is looking at the impact of the lift and that an encroachment permit would be necessary and that the City has seemingly been willing to grant one under similar circumstances. She did not understand why obtaining an encroachment permit would be a problem.

Ms. Jaeger stated that as the lift would encroach on the sidewalk, and because it's a corner building, the city might have a potential problem with liability of a skate boarder or a stroller or someone walking around the corner

Commissioner Baltimore asked if Ms. Jaeger had asked for an encroachment permit from the City.

She had not asked for an encroachment permit

Secretary Friedman stated that he thinks it was unlikely that the City would grant the permit for the lift to park at the bottom of its run. He had suggested in the summary that the lift could park at the top and that he was not talking about a lift that requires cutting into the stairs for installation, but rather, was talking about a lift that would follow the incline of the stairs.

Ms. Jaeger stated that she had investigated incline lifts. They could be parked at the top but they would still have rails encroaching into the sidewalk by 3 feet.

Mr. Friedman stated that he did not know about that (3 foot encroachment). He had referred to a lift at Hallidie Plaza that encroached onto the sidewalk by 6 inches.

Ms. Jaeger stated that they had visited Hallidie Plaza to look at two vertical lifts that had been installed. Neither one of them encroached even 1 foot onto the sidewalk.

Commissioner Lerner stated that he was not endorsing a product but he did do some research on Garaventa (lifts) and talked to the representatives from the company. Their 'cut sheet' shows that the lift rail extends 12 inches out from the building. He has seen that type of lift in other buildings and it is not parked on the sidewalk, but at the top of its run, instead. He thinks the situation needs to be studied more.. He also thinks that the historical impact would be minor and reversible (conforming with the guidelines of the Secretary of the Interior.) As an example, there is an incline lift within the Polk Street entrance of City Hall. Pacific Access Contractors in Redwood City is a Garaventa representative.

Ms. Jaeger stated that because of delays, she is losing her livelihood after being in business for 9 years. She would like to have the permit to build and then add the lift in a year or two when she can regenerate lost income. Her mortgage is \$10,000 per month.

Commissioner Lerner said that he has concerns about those disabled people that won't have access to the store.

Ms. Jaeger said that she intended to create the access and that the building has been used for many years without any access at all.

Commissioner Lerner said that the Commission is trying to correct that. He didn't know if it would be legal to allow the permit to be approved without accessibility being provided.

Commissioner Baltimore asked how long the construction would take.

Ms. Jaeger said it would take ten weeks.

Commissioner Baltimore said that a temporary certificate of occupancy would be the only way to approve this.

Mr. Friedman stated that the owner would not need a certificate of occupancy because there is no change in occupancy. What the department has traditionally done in these instances is to hold back the final building inspection approval until the access work has been completed.

Commissioner Lerner stated that this is a \$250,000 renovation and an incline chair lift is probably less than 10 percent of that total and that he doesn't see this as a hardship.

Ms. Jaeger stated that she is selling her home, is in the process of trying to get investors and is barely raising the \$250,000 , and could potentially lose her livelihood. She understands that \$40,000 may seem like a small amount.

Commissioner Lerner said that he is not convinced that it will cost \$40,000.

Commissioner Baltimore said that there are cheaper alternatives than what have presented here today.

There was a brief discussion among the Commissioners regarding the appropriate language to use in forming the motion for a vote.

Commissioner Brown said perhaps Mr. Friedman could clarify what kind of certificate of occupancy the Department would be issuing. Also, what would be delayed by not having the final inspection.

Mr. Friedman stated that the department could issue the permit and allow the appellant to proceed with construction and occupy the space, but not have a final inspection signoff until this (accessibility) issue is resolved. They are not changing occupancy and the use change is very minor. There is no reason why they can't occupy now if they want to, assuming they don't do any construction.

Commissioner Baltimore asked what happens if they do not get a final inspection?

Mr. Friedman stated that if the permit expires, then technically they could be cited with a notice of violation but other than that there is no penalty.

A brief discussion took place regarding expired permits.

Mr. Friedman said that the inspectors expire permits on a regular basis.

Ms. Jaeger asked if she could be granted a continuance so she could conduct further research.

Mr. Friedman said that he would like to recommend that we go ahead with letting the department issue the permit because otherwise we are putting this person under extreme financial hardship.

At this time a discussion about upcoming hearings took place among the Commissioners and the Secretary.

Mr. Friedman repeated his recommendation regarding issuance of the permit.

Commission Baltimore said that she had no problem with Mr. Friedman's recommendation.

Commissioner Lerner said that he didn't think this would be a difficult problem to solve .

Mr. Friedman said that the appellant has stated that she is having a financial hardship.

Ms. Jaeger again stated that she is having a financial hardship.

Ms. Jaeger again asked for the permit to start the work and do some research on lifts.

Commission Baltimore said basically she was making a motion to allow the start of construction, and some time to do research.

Commissioner Baltimore said that the motion was to allow start of construction and research lifts, Some type of lift would have to be installed and that the appellant would have to return within 6 months.

Ms. Jaeger appreciated that.

Mr. Friedman restated the motion as: the motion is to advise the department to issue the permit and that the appellant would have to comply (with accessibility features) within 6 months.

Commissioner Lerner said that he wants to deny the hardship and have them provide access, and would not vote in favor of the motion.

Commission Brown said that she agreed with Commissioner Lerner.

Commissioner Lerner said that there is not a good track record of giving people time periods for complying.

Ms. Jaeger stated that she would do what was necessary to comply.

The Commissioners again discussed the motion.

Mr. Friedman restated Commissioner Baltimore's motion as follows:

Recommend that DBI issue the permit but not final the permit pending the installation of the lift. The appellant is to return in two months. They are to file another (separate) permit for a lift or other means of access to the level in question and that an (AAC) hearing will be scheduled in two months and that the additional time to resolve this issue was granted due to financial hardship imposed on the appellant.

Vote on the motion by Commissioner Baltimore:

Commissioner Baltimore	Yes
Vice President Lerner	Yes
Commissioner Lim	Yes
President Brown	Yes

COMMISSIONERS QUESTIONS AND COMMENTS:

6. PUBLIC COMMENT:

No public comment.

Meeting was adjourned at approximately 2:30 P.M.

These notes are an approximate summary of the Commission meeting.

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