



# City of Santa Barbara

## BUILDING AND FIRE CODE BOARD OF APPEALS MINUTES AUGUST 2, 2018

2:30 P.M.  
David Gebhard Public Meeting Room  
630 Garden Street  
[SantaBarbaraCA.gov](http://SantaBarbaraCA.gov)

### BOARD MEMBERS:

Paul Spieler, *Chair*  
Nick Koonce  
Ken McLellan  
Vincent E. Wood  
Marsha Zilles

### STAFF:

Andrew Stuffer, Chief Building Official  
Joe Poire, Fire Prevention Division Chief  
Greta Walters, Executive Assistant

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### CALL TO ORDER

The Full Board meeting was called to order at 2:34 p.m. by Chair Spieler.

### ATTENDANCE

Members present: Koonce, McLellan, Spieler, Wood, and Zilles

Members absent: None

Staff present: Cassidy, Harrison, Mikelson, Stuffer, and Walters

### GENERAL BUSINESS

#### A. Public Comment:

The meeting opened for public comment at 2:35 p.m. Access Advisory Committee Chair Jim Marston asked that staff reports and meeting materials be released earlier for the benefit of the board and the public. There were no additional comments, so the chair closed the public comment portion at 2:37 p.m.

#### B. Approval of Minutes:

Motion: Approve the minutes of the Building and Fire Code Board of Appeals meeting of **June 7, 2018**, as submitted.

Action: Zilles/Wood, 5/0/0. Motion carried.

#### C. Announcements, requests by applicants for continuances and withdrawals, future agenda items, and appeals:

NOTE: Agenda schedule is subject to change as cancellations occur.

1. Mr. Stuffer announced that he stood by the staff's report, adding that he and Senior Plans Examiner Curtis Harrison were available to answer questions.
2. Board Member Wood announced that he was a member of the Santa Barbara Club and recused himself from the agenda item.

### 1) 1105 Chapala Street — Accessible Path of Travel Requirement

Present: Foundation President John Gordon and Club Manager Addison Thompson

Club Manager Addison Thompson asked the Board of Appeals to authorize the original walk-in cooler project to proceed *without* requirements for 1) a new accessible trash enclosure, 2) a new accessible path to the trash enclosure, and 3) a new accessible path from Chapala Street.

Public comment opened at 2:51 p.m. Access Advisory Committee Chair Jim Marston reminded the Board that an event that includes guests who are invited by club members is still considered an event open for public use. Chief Building Official Stuffer confirmed that an event that included members' guests would be considered public-use by the City.

Club member Jerry William Beaver stated that he found the club to be very accessible despite his disabilities, and suggested that, in his practical opinion, using a new accessible path from Chapala Street would be more hazardous than the back entrance he currently uses. Public comment closed at 2:59 p.m.

#### Board comments:

Board members discussed matters such as: 1) the possibility of adding more accessible parking spaces instead of a new accessible route from Chapala Street, 2) application of the State Historic Building Code, and 3) increasing ADA access without creating an Unreasonable Hardship for the historic club.

**Motion:** Uphold the decision of the Chief Building Official (CBO) to require an accessible path of travel to areas of new work.

**Action:** Standing motion, 0/4/0. No members voted in favor of the motion; four opposed the motion; no members abstained.  
Motion did not carry.

**Motion:** Continue the hearing, with the board receiving the following information: additional details from the permit applicant about construction costs; confirmation from the city about whether or not a trash enclosure is required; and the Access Compliance forms filed by the Club with the City Building & Safety Division.

**Action:** Koonce / McLellan 4/0/0. Four members voted in favor of the motion; no members opposed the motion; no members abstained.  
Motion carried.

### 2) 930 Miramonte Drive — Appealing Notice of Order

*Description: Request to Overturn December 19, 2017, Notice of Violation*

Actual time: 3:34 p.m.

Present: Joseph Liebman, Attorney for the Appellant, Visiting Nurses Association, and Private Building Official, Roy Harthorn

Staff comments: CBO Andrew Stuffer reported that he stood by the staff report as presented.

Mr. Liebman disclosed that although he had served on a school board with Mr. Spieler in the past, the two did not have other business relationship.

Mr. Liebman remarked that the city's decision was based on an inspection performed a year after the water and debris flow, and stated that there was no evidence that the water or dirt flowed from the Visiting Nurse Association's property onto the neighboring property. Roy Harthorn explained that the bioswale and drainage systems were designed by a team of experts specifically to result in no increased water flows from the Visiting Nurse Association's property. He added that the system was built, inspected, signed off on, and re-inspected by the city. Mr. Harthorn also noted that a retaining wall built on the Pauletto property was not built to plan specifications.

Chief Building Official Andrew Stuffer acknowledged that the city did not have sufficient evidence that the water that discharged onto the downhill property or public right-of-way had flowed from the appellant's property. He noted, however, that the system that was designed by a civil engineer and approved and inspected by the city, had since been modified to the extent that a civil engineer needed to submit a revised plan for the system or restore the system to its original design. He added that according to the approved plan, rocks would have been used to dissipate the force of flowing water, but the rocks are not present in photos.

Public comment opened at 4:06 p.m.

Billie Pauletto, owner of the property at the bottom of the hill, stated that with current drought conditions, since the Visiting Nurse's Association purchased the property and built the system, water flowed into her backyard when it rained.

Public comment closed at 4:24 p.m.

Board comments:

Board Member Nick Koonce noted that he did not see evidence that the rocks or boulders ever existed, or that they were moved on the appellant's property. Board Member Marsha Zilles asked if the appellant had a change order for the changed cover on the bioswale. Mr. Liebman replied that a letter was attached to his brief that stated some things needed to be done before the certificate of occupancy (C of O) was issued, but that the C of O was later issued by the City. Paul Spieler stated that the system had been changed from the approved plans, so a civil engineer needs to take another look at the system in light of the complaints from the neighbors.

**Standing Motion:**

Uphold the decision of the Chief Building Official to issue the Notice of Violation as stated below:

*VIOLATION: Water discharge onto downhill neighboring properties/public right-of-way and drainage system altered from approved design.*

- 1) *Hazardous drainage conditions*
- 2) *Lack of maintenance found on storm water drainage facilities:*

- a. *Fallen tree obstructing drainage course*
  - b. *Rubble/river rock removed from discharge openings*
  - c. *Rubble/river rock removed from 4" drain opening*
- 3) *A solid steel plate has been installed in bio swale where approved plans call for expanded metal mesh at this inlet to cisterns.*

Action: Vote: 0/5/0. No members voted in favor of the motion; five voted against the motion; none abstained. Motion did not carry.

**Motion:** Direct Chief Building Official to modify notice of violation language as follows:

*VIOLATION: Drainage system altered from approved design:*

1. *Lack of maintenance found on storm water drainage facilities:*

- a. *Fallen tree obstructing drainage course*
- b. *Rubble/river rock removed from discharge openings*
- c. *Rubble/river rock removed from 4" drain opening*

2. *A solid steel plate has been installed in bio swale where approved plans call for expanded metal mesh at this inlet to cisterns.*

Action: Vote: Spieler / Wood, 5/0/0. Five members voted in favor; none voted in opposition; none abstained. Motion carried.

### 3) 1209–1211 Chino Street — Appeal of Notice of Violation

Actual time: 4:31 p.m.

Present: Neither the appellant nor a representative was present.

Staff comments: CBO Andrew Stuffer reported that he stood by the staff report as presented.

Board comments: Chair Paul Spieler observed that in his opinion, a permit should be obtained for the work being performed. Nick Koonce stated that he would prefer to continue the item to give the appellant more advance notice. Board Member Vince Wood asked the CBO to clarify the timeframe for making an appeal.

Public comment opened at 4:40 p.m.

CBO Stuffer explained that the municipal code states that there are ten days during which the Building Official's decision can be appealed; if the notified party does not appeal during that span of time, they lose the due process right to appeal. Once the appeal request is filed, the case must be heard in no less than ten days and no more than 60 days. Mr. Stuffer stated that the appellant, Mr. Gilson, informed the City that he would be out of the country on the appeal date; Mr. Stuffer replied that he did not need to appear in person but could make a statement in writing or send a representative to appear on his behalf. The CBO explained to the board that if they were to vote against continuing the appeal, Mr. Gilson would lose his opportunity to appear before the board and make a case in person.

No member of the public spoke; public comment closed at 4:43 p.m.

#### **Standing Motion:**

Uphold the decision of the Chief Building Official to issue the Notice of Violation.

Action: Vote: 3/1/1; three members voted in favor; one vote opposed the decision; one member abstained. The motion carried.

**4) Housing Authority of Santa Barbara Samarkand Drive — Alternate Method of Compliance**

**Staff request:** CBO Stuffer asked that the Board inform the Housing Authority of Santa Barbara (HASB) that due to insufficient time, their case would be heard at a later date. Skip Szymanski, HASB, asked the board to hear the HASB item and take a quick vote.

**Motion:** Change the order of the agenda to address the HASB item prior to the 417 Samarkand item in order to allow Nick Koonce to recuse himself from the 417 Samarkand Drive agenda item.  
**Action:** Vote: Koonce / Zilles, 5/0/0. Five members voted in favor; none voted in opposition; none abstained. Motion carried.

Present: Skip Szymanski, Housing Authority of Santa Barbara

Mr. Szymanski stated that HASB has existing apartments and is also in charge of new-apartment development. He asked the Board to grant an alternate compliance approach in order to make more individualized accommodations for its residents rather than the State Building Code “cookie-cutter approach” in making residential facilities accessible.

Public comment opened at 4:45 p.m. Jim Marston spoke in strong opposition to the idea, noting that he did not think it was wise to trust another entity to build according to California Building Code requirements. CBO Stuffer explained that HASB has a public appeals process and a public record process for tracking all changes. Mr. Stuffer also assured the Board that the role of the Building and Safety Department would remain the same. Lastly, CBO Stuffer added that, while he can approve certain circumstances without coming to the Board, this alternative proposed by the HASB would allow the CBO and his staff to approve the HASB changes more expeditiously.

Board discussion: Nick Koonce opposed the proposal, noting that it would set a dangerous precedent; Paul Spieler felt that trusting the staff to meet the spirit of the code was satisfactory in the cited examples. In the end, the Board asked for a continuance in order to have a deeper discussion.

**Motion:** Continue the item to a later meeting.

**Action:** Vote: Spieler/Zilles: 4/1/0. Four members voted in favor of continuance; one voted in opposition; no one abstained.

**Motion:** Adjourn the meeting.

**Action:** Vote: Zilles/Spieler: 5/0/0. Five members voted in favor; none voted in opposition; none abstained. Motion carried.

The meeting adjourned at 5:00 p.m.