



City of Santa Barbara

BUILDING AND FIRE CODE BOARD OF APPEALS MINUTES NOVEMBER 1, 2018

2:30 P.M.

David Gebhard Public Meeting Room
630 Garden Street
SantaBarbaraCA.gov

BOARD MEMBERS:

Paul Spieler, *Chair*
Nick Koonce
James D. Langhorne
John Maloney
Ken McLellan
Vincent E. Wood
Marsha Zilles

STAFF:

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

NOTE: These minutes are a summary; a full recording of this meeting is available at <https://www.santabarbaraca.gov/gov/brdcomm/ac/bfcba/audio.asp>.

CALL TO ORDER

The Full Board meeting was called to order at 2:36 p.m. by Chair Spieler

ATTENDANCE

Members present: Koonce, Langhorne, Maloney, 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 2:37 PM. There were no comments, so the chair closed the public comment portion at 2:37 PM.

B. Approval of Minutes:

Motion: Approve the minutes of the Building and Fire Code Board of appeals meeting of **October 4, 2018**, as submitted.

Action: Maloney/Wood, 6/0/1. (Nick Koonce abstained.) Motion carried.

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

- C. Announcements, requests by applicants for continuances and withdrawals, future agenda items, and appeals:
1. There were no announcements.

1. Subject Item: Discussion of Board Processes and Procedures

Actual time: 2:37 PM

- A. Types of Hearing Items:** Chief Building Official (CBO) Andrew Stuffer explained that Building and Fire Code Board of Appeals hearings fall under four types:
1. Appeals, which require findings and a decision;
 2. Ratification of an Unreasonable Hardship finding by the CBO;
 3. Request for Board input;
 4. Informational items that do not require a decision.

The CBO noted all procedural steps for conducting a hearing (e.g., call to order, comments from the public, etc.) will be outlined, moving forward.

- B. Public Comment:** CBO Andrew Stuffer stated that public comments are allowed on every subject item but are not mandatory. He explained that the Chair has some flexibility in adjusting time to accommodate public comment, but must treat parties equitably.

- C. Findings:** The CBO stated that moving forward, findings must be included in the motion for appeal decisions, since they form the basis of the motion.

- D. Voting Process for Appealing Decisions:** The Board agreed unanimously to change how they handle cases in which they do not uphold the CBO's decision. Moving forward, the process will be as follows:
1. Close the meeting to public comment.
 2. Chair states that there is a standing motion to uphold the decision of the Chief Building Official.
 3. Chair asks for a second.
 4. *If there is no second to uphold the decision, the motion will die on the floor.*
 5. Chair asks that a new motion is made. The new motion must include findings.
 6. Board has a discussion. (If, after discussion, the Board reverses its thinking and decides to uphold the CBO's decision, they may do so.)

- E. Use of Microphones for Hearing-Loop Amplification and Record-Keeping:** Conversations and questions should be directed into the microphones since it reflects the thought process and consideration of the Board members.

- F. Informational Staff Report from CASPs:** The CBO stated that he will ask the Certified Access Specialists (CASPs) on staff to create an informational staff report that explains thresholds and how applications are processed for path of travel improvements leading up to unreasonable hardship ratification hearings. CBO Stuffer acknowledged that ADA regulations change periodically and that the staff reports include relevant, up-to-date code information.

2. Public Comment:

The meeting opened for public comment at 3:03 PM.

James Marston asked for clarification regarding the public comment rule. CBO Stuffer explained that the chair *may* allow public comment on individual subject items but does not have to do so. Opening the meeting to general public comment is a required procedure.

Mr. Marston stated that, in his opinion, discussion of the issues should take place before the vote is called so that decisions include Board members' ADA expertise/experience. He also noted that Board members should not be expected to vote on minutes of meetings they've not attended; instead, they should be able to abstain. The CBO reminded the Board that members should not have email conversations about hearing items before minutes are published and adopted. CBO Stuffer added that the next code adoption might recommend that the Board is composed only of seated members so that attendance does not change from one meeting to the next.

Mr. Marston also remarked that the Board should not make decisions about items that weren't a hardship ratification or an appeal. The CBO and Board Members Langhorne and Mahoney agreed that this was true but noted that the Board might be asked to provide *input* or to act in an advisory capacity on some matters.

The CBO explained that the Brown Act dictates that agendas for meetings must be published 72 hours in advance, and written comment can be submitted from the public in writing before the meeting. If written materials are delivered with sufficient time to make copies, staff will provide copies; however, if materials are given to the Board with insufficient time before or even during the meeting, the members will need to determine if they should defer making a decision until after reviewing those materials and/or receiving additional information.

CBO Stuffer stated that he would ask the City Attorney if Board members are allowed to provide written comment on agenda items from which they recuse themselves.

The Chair closed the meeting to public comment at 3:32 PM.

3. Board Discussion:

Board Member Nick Koonce asked what the procedure was for getting information added to the minutes if it appears to have been omitted. The CBO explained that the minutes are summary notes, and the full recordings are accessible on the City's web pages. He explained that motions during meetings can be made for simple additions to minutes in order to clarify findings. CBO Stuffer noted that he will ask the City Attorney if motions can be made to amend minutes that have already been reviewed and approved.

Motion: Adjourn the meeting.

Action: Spieler / Koonce, 7/0/0. Motion carried.

The meeting adjourned at 3:39 PM.