



City of Santa Barbara

BUILDING AND FIRE CODE BOARD OF APPEALS MINUTES JULY 11, 2019

2:30 P.M.
David Gebhard Public Meeting Room
630 Garden Street
SantaBarbaraCA.gov

BOARD MEMBERS:

Paul Spieler, *Chair*
Patrick C. Carroll
Jeff Hornbuckle
Nick Koonce
Vincent E. Wood

STAFF:

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

Note: These minutes are a summary of the meeting; an audio 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 2:34 p.m. by Chair Choose an item.

ATTENDANCE

Members present: Koonce, Carroll, Spieler, Wood, and Hornbuckle

Members absent: None

Staff present: Foreman, Stuffer, and Walters

GENERAL BUSINESS

A. Public Comment:

The meeting opened for public comment at 2:34. No one chose to speak, so public comment was closed.

B. Approval of Minutes:

Motion: Approve the minutes of the Building and Fire Code Board of appeals meeting of **May 9, 2019**, as submitted.

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

C. Announcements, requests by applicants for continuances and withdrawals, future agenda

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

items, and appeals:

1. Chief Building Official Andrew Stuffer reported that he had no announcements for the Board.

Item #1: 414 E. Haley: Rehearing an Appeal of a Decision to Require Revisions and withhold Occupancy

Actual time: 2:37 p.m.

Staff Comments:

Chair Paul Spieler asked Mr. Stuffer to provide a report to the Board Members.

Mr. Stuffer recalled the motion and approval vote from the April 4, 2019, meeting where the Board of Appeals voted in favor of a motion to allow the rear entrance to the subject tenant space to serve as the accessible entrance. Mr. Stuffer also explained that since the April 4, 2019, hearing, the City Attorney's Office had determined that Board Member John Maloney had a conflict of interest when Mr. Maloney voted on the subject item rather than recusing himself.

Mr. Stuffer stated that the vote on the subject item now stood at 3/1, with Mr. Maloney's vote considered invalid. Based on the City Attorney's direction, Mr. Stuffer advised the Chair to ask each Board Member to state for the record at this meeting whether or not their vote on April 4 was influenced by Mr. Maloney's participation. He added that if the April 4, 2019, 3/1 vote were to change today, based on responses to this question, the item would need to be reheard. Mr. Stuffer added that the appellant's attorney submitted a letter to the CBO stating that they objected to the proposed solution to the matter.

Chair Spieler posed the following two questions to each board member who had voted at the April 4 meeting: *1) Was your vote on this item at the April 4, 2019, hearing influenced by Mr. Maloney's participation? 2) Please briefly explain why your vote was not influenced.*

Board members Wood, Koonce, Hornbuckle, and Spieler individually affirmed that their votes had not been influenced by Mr. Maloney's participation, and each provided their respective justifications.

Mr. Stuffer advised the Chair that public comment had not been received on the subject item, and asked the Board to take public comment and then pose the questions to each board member again so that the public comments on this item be considered by each Board member prior to each Board member's response.

Public Comment:

Public comment opened at 2:45 p.m.

Anna Marie Gott stated that the 414 E. Haley item was being reheard because of a conflict of interest report, so it was incumbent upon the board to re-agendize the item to reflect the conflict of interest and rehear the item out of fairness to the public. James Marston noted that he agreed with Ms. Gott and stated that the agenda had violated the Brown Act. Mr. Marston also expressed concern about communication between board members and the appellant following the April 4

meeting, and stated that he was concerned about codes not being cited in the board's findings for the vote.

Public comment closed at 2:52 p.m.

Motion:

Board member Koonce noted that he agreed with Ms. Gott's and Mr. Marston's assertions.

Action: Board member Koonce made a motion to re-agendize the 414 E. Haley item properly. There was no second; the motion did not carry.

Staff Comment:

Mr. Stuffer stated that prior to publication, the agenda and staff report were reviewed by the City Attorney's Office, which determined that there was no Brown Act violation. Mr. Stuffer explained that the published staff report specified what would be heard and the order of the hearing, and he noted that the item ultimately centers on the Chief Building Official's original decision.

The Chair again posed the two questions to the Board members, and each reaffirmed that they had not been influenced by Mr. Maloney's participation.

Mr. Stuffer stated that because the board members confirmed that they had not been influenced, the vote stood 3/1 in favor of the motion made on April 4, 2019. Therefore, the subject item did not need to be reheard. Mr. Stuffer noted that the decisions of the Board decisions are appealable to Superior Court.

Item #2: Building and Fire Code Board of Appeals Duties and Compensation

Actual Time: 3:04 p.m.

Chair Paul Spieler asked the Chief Building Official and Fire Marshall Joe Poire to present the staff report.

Staff Comment:

Fire Marshal Joe Poire joined the Chief Building Official. Mr. Stuffer explained that the City was preparing to adopt the 2019 California Building Code and to make necessary amendments allowed by the state. He explained that the appeals section allowing an unlimited number of members with unlimited terms was being reviewed in particular. Mr. Stuffer explained that although the City's guidelines allow for the Community Development Director and Fire Marshal to select members for each hearing, depending on members' areas of expertise, State regulations require Accessibility matters to be heard before a board consisting of five members, two of whom must have physical disabilities.

Mr. Stuffer asked the board for feedback on the concept of setting the maximum membership number at seven and requiring all seven to attend (two as alternates, five as voting members) in order to meet the State voting requirements. He also suggested adding the Access Advisory Committee Chair to the Board of Appeals in an advisory capacity. The CBO also recommended limiting the number of years board members serve. The Fire Marshal added that building official and fire official need to adopt language that is identical in the appeals section.

Public Comment: Public comment opened at 3:07 p.m.

James Marston suggested that the Board could be divided into two groups—one group that offered expertise in accessibility compliance, and another that contributed technical, professional expertise. Roy Harthorn commented that a larger board offers the advantage of broader knowledge about different topics. He added that lifetime appointments also provide value. Mr. Marston agreed that a larger number would be beneficial, adding that accessibility matters and technical issues could be addressed at separate meetings.

Staff Comments:

Member Koonce expressed concern about Mr. Wood's serving as a Board member who identified as physically disabled Board, and asked Mr. Wood if he would consider removing his name from the slate of physically disabled members. Mr. Wood replied that he did not object to having his name removed from consideration as a physically disabled person.

The Board generally favored having a larger board that offered a better balance of physically disabled representation for accessibility issues. The current board members also said they would welcome a Certified Access Specialist as well as new members with land use, fire protection, legal, and Building Code experience.

The Chief Building Official explained that he would take these comments to the City Attorney's Office for discussion. He added that he would return with a draft of the proposed amendments before the final amendments are taken to the Ordinance Committee in the fall of 2019.

Motion: Adjourn the meeting.

Action: Nick Koonce / Wood, 5/0/0. Motion carried.

The meeting adjourned at 3:54 p.m.