



**ACTION MINUTES**  
**Board of Building and Fire Appeals**  
Special Meeting  
**7:00 p.m. – Wednesday, November 18, 2015**  
**Louden Nelson Community Center, Room 3**  
**301 Center Street, Santa Cruz, CA 95060**

**CALL TO ORDER** – At 7:08 p.m. by Chair William Kempf

**ROLL CALL** – By Director of Planning and Community Development, Juliana Rebagliati

Present: William Kempf, Chair; Peter Bagnall, Vice Chair; Foster Andersen; Myles Corcoran; Gary Fusari; Thomas Kern; Joseph Quigg.

Absent: None.

Staff: Tony Condotti, City Attorney; Jim Frawley, Fire Chief; Mark Ramos, Fire Marshal; Mark Ellis, Chief Building Official; Juliana Rebagliati, Director of Planning & Community Development; RosaIsela Chavez-Rocha, Office Supervisor; Jim Dias, Consultant (Fire Codes); Michael Loomis, Consultant (Building and Accessibility Codes)

**STATEMENT OF DISQUALIFICATIONS** – None

Chair Kempf gave a brief description and City Attorney Tony Condotti addressed the board, providing further clarification on Statement of Disqualifications.

**PUBLIC HEARING** –

- 1. Appeal OF Mark Primack regarding determination of Chief Building Official requiring accessible bar counter and of determination of Fire Marshal, Fire Chief and Chief Building Official requiring door to swing to out in the direction of egress travel for the structure located at 105 Walnut Ave. Santa Cruz, CA.**  
**Recommendation: That the Board of Building and Fire Appeals uphold the determinations of the Chief Building Official, Fire Marshal and Fire Chief.**

Chair Kempf briefly discussed the role and makeup of the board of building and fire appeals (board). He read the nature of appeals and the order of the meeting.

City Attorney Condotti spoke regarding the authority and responsibility of the board.

Director Juliana Rebagliati introduced staff and city consultants.

Staff made a presentation with Mark Ellis, Chief Building Official, presenting the general scope of the appeal and the summary of the bar counter, and Mark Ramos, Fire Marshal presenting on the door swing. Mike Loomis, Building Code Consultant, also spoke on the matter of the door swing.

Appellant Mark Primack, project Architect, made a presentation to the board which included building and business owner Patrice Boyle speaking and David Subocz of Mark Primack and Associates also presenting.

Chair Kempf opened for clarification questions from the board. Board members asked for clarification regarding appellant's door swing reasoning, receiving comments from Mark Primack and David Subocz. Jim Frawley, Fire Chief, briefly addressed the board regarding staffs availability to respond to questions. Board asked for clarification on what the board may consider, receiving a response from the city attorney.

Chair Kempf opened the public hearing.

#### Speaking from the audience

- Bud Colligan, co-chair of the Monterey Bay Economic Partnership and founding Board Member of Santa Cruz Works, has his own investing firms, and worked extensively with Economic Development.
- Bill Schultz, Schultz Construction and project contractor.
- Heidi Spicer, Local Architect in Santa Cruz.
- Cove Britton, Matson Britton Architects.
- Doug Ley, Resident of Santa Cruz.
- Peter Meehan, CEO of Newman's Own Organics.
- Enda Brennan, Local Lawyer and appellant's husband.

Chair Kempf closed the public portion of the hearing and opened the discussion to the Board.

The Board of Building and Fire Appeals received the presentation, heard public comment, asked questions and made comments. The following action was taken;

**ACTION 1:**           **To uphold the Chief Building Official's determination that the bar counter does not qualify for a finding of technical infeasibility, therefore shall comply as shown on approved plans and per current code.**

**Upon a motion by Board member Kern and seconded by Board member Kempf, the Board of Building and Fire Appeals Denied the appeal and upheld the Chief Building Official's determination, on a vote of 7-0, with Board member(s) Kempf, Bagnall, Andersen, Corcoran, Fusari, Kern and Quigg voting in favor.**

**ACTION 2:**           **To uphold the Fire Marshal, Fire Chief and Chief Building Official's determination that the door in question shall swing out, in the direction of egress travel.**

**Board member Corcoran made a motion to approve the appeal, overturning the city determination, but the motion failed for lack of a second.**

**Upon a motion by Board member Bagnall and seconded by Board member**

**Fusari, the Board of Building and Fire Appeals Denied the appeal and upheld the determination of the Fire Marshal, Fire Chief and Chief Building Official by a vote of 4-1, with Board member(s) Fusari, Kern, Kempf, and Bagnall in favor, and Corcoran opposed.**

For the Administrative Record, Enda Brennan commented that this meeting today was not accessible by individuals trying to get on-line and find out about whether this hearing would be held. He stated that an agenda was posted at the City Hall and wasn't sure of the date or time; he further stated that after individuals contacted the city they were told the notice was not on-line and the City rushed to put the agenda up on-line this morning. He cautioned the city that he believes the requirements were not met for this meeting.

The City Attorney commented that if the meeting was agendized incorrectly and a demand is made, that it may require the reconvening of this hearing to reconsider these actions, if the meeting had indeed violated the Brown Act.

**ADJOURNMENT** – As there was no further business by the Board of Building and Fire Appeals, Chair Kempf adjourned the meeting at 10:51 p.m. to an unspecified date to be set in the future.

**APPROVED:** \_\_\_\_\_  
**Chair**

**ATTEST:** \_\_\_\_\_  
**Secretary**