Council Agenda Report

Council Meeting
05-11-26
Item 7.A.

To: Mayor Silverstein and the Honorable Members of the City Council

Prepared by: Yolanda Bundy, Community Development Director

Approved by: Joseph D. Irvin, City Manager

Date prepared: May 4, 2026 Meeting date: May 11, 2026

Subject: Building Board of Appeals

RECOMMENDED ACTION: 1) Receive and file this report as an education item; and 2) Provide direction to staff, if appropriate.

FISCAL IMPACT: This item is informational only and has no associated fiscal impact.

STRATEGIC PLAN IMPLEMENTATION: This item relates to the City's adopted strategic planning framework as follows:

Goal 1: Support Community Rebuilding and Long-Term Recovery by the Building Board of Appeals is a code-required component of the City's building regulatory framework. Ensuring the Council understands the Board's defined and limited role supports transparent governance of the permitting and appeals process as the City manages an elevated volume of fire rebuild applications.

Goal 1, Objective 1.2: Modernize development policies and procedures citywide to support resilient community development by ensuring the Council is informed of the legal structure governing the Building Board of Appeals as part of the Community Development Department's operational framework.

DISCUSSION: Staff has received inquiries from Councilmembers regarding the background and function of the Building Board of Appeals and its availability as a resource for residents, particularly in the context of the ongoing Palisades Fire rebuild effort. This report is presented to the City Council as an education item, to receive and file, regarding the Building Board of Appeals for Building Safety as established under the City's adopted Building Code. The purpose of this report is to provide the City Council and our community with a factual overview of the Board's legal basis, composition requirements, and scope of authority as defined by the adopted code, and

to acknowledge the current membership of the Board as appointed by the City Council. This item is brought forward pursuant to MMC Section 15.04.050 and the Los Angeles County Building Code, Title 26, as locally adopted.

Property owners and applicants engaged in the rebuild process should be aware that a formal statutory procedure exists under the adopted Building Code for seeking review of a Building Official decision. Pursuant to Section 105.1.2 of the Los Angeles County Building Code, as adopted by the City of Malibu, any aggrieved party may file a formal written appeal of a specific Building Official decision with the City. The Building Board of Appeals shall have authority to hear such appeals in accordance with the procedures and limitations set forth in the adopted code. This formal appellate process is separate from and does not substitute for the City's standard permitting and plan check process, and does not affect the Building Official's authority to administer and enforce the adopted Building Code in the ordinary course.

The California Building Standards Code (Title 24 of the California Code of Regulations) requires each jurisdiction in the State of California to adopt its provisions. Included within those standards are provisions establishing a Building Board of Appeals. The City of Malibu adopts the Los Angeles County Building Codes, which incorporate the California Building Standards Code with local amendments. Per MMC Section 15.04.050, the City has further amended certain provisions of the County Code for local applicability, including those governing the Building Board of Appeals.

Per Section 105.1.1 of the Los Angeles County Building Code (Title 26), as adopted and amended by the City of Malibu, the Building Board of Appeals shall consist of five members who are qualified by experience and training to pass upon matters pertaining to building construction. The Building Official shall be an ex-officio member and shall act as secretary to the Board. Members are appointed by the City Council and hold office at its pleasure.

Per Section 105.1.2 of the Los Angeles County Building Code, as retained and applicable in Malibu, the Building Board of Appeals has the authority to hear appeals regarding any action of the Building Official. The Building Board of Appeals shall also be authorized to recommend to the City Council such new legislation as it deems appropriate. The Building Board of Appeals shall have no authority relative to interpretation of the administrative portions of this Code, other than Section 102, nor shall the Board be empowered to waive requirements of this Code. The Building Board of Appeals shall document all decisions and findings in writing to the Building Official, with a duplicate copy to the applicant.

The City currently has a Building Board of Appeals consisting of the following members, all appointed by the City Council to at-large roles. Since the Board's initial appointment, there has been no occasion requiring the Board to convene, as no appeals of Building Official decisions have been filed with the City.

Table 1 – Building Board of Appeals Appointments		
Member Name	**Date Appointed/Reaffirmed**	**Role**
Marissa Coughlan	February 10, 2025	At-Large
Joseph M. Girard	February 10, 2025	At-Large
Scott Halley	February 10, 2025	At-Large
Lynn Heacox	February 10, 2025	At-Large
Lisa Niles	February 10, 2025	At-Large
Alternate Seat #1	VACANT	
Alternate Seat #2	VACANT	

For reference, the following table reflects how selected California jurisdictions define member expertise requirements for their respective Building Boards of Appeals, as set forth in their adopted codes. Member qualifications vary by jurisdiction; some adopt the Los Angeles County standard verbatim, others establish local qualification standards.

Table 2 – Jurisdiction Comparison		
Jurisdiction	**Members**	**Code-Required Member Expertise**
Los Angeles County (Title 26, §105.1)	5	One (1) practicing architect; one (1) licensed general contractor; one (1) lawyer; two (2) structural engineers. Each member must have a minimum of ten (10) years of experience in their respective discipline.
City of Malibu (MMC §15.04.050.A)	5	Five members qualified by experience and training to pass upon matters pertaining to building construction. No specific professional license or discipline is prescribed by the City's adopted code.
City of South Pasadena (Mun. Code Ch. 9, §105.1)	5	One (1) practicing architect; one (1) competent builder; one (1) lawyer; two (2) civil or structural engineers. Each member must have a minimum of ten (10) years of experience in their respective discipline.
City of Santa Cruz (Mun. Code	5 regular + special	Each regular member must hold an active California license as an architect;

Table 2 – Jurisdiction Comparison		
Jurisdiction	**Members**	**Code-Required Member Expertise**
§18.41.020)	members	structural, civil, mechanical, or electrical engineer; general building contractor; engineering contractor; electrician; plumber; or sheet metal contractor. Additional special members (disability representatives, energy contractor, fire code professional) are called as needed and hold full voting rights on matters within their expertise.
City of Pleasant Hill (Mun. Code §3.50)	3	Members must be qualified by experience and training in building construction matters and must not be City employees. The code identifies licensed contractors, engineers, and architects as those who qualify, though no specific license is mandated. Residency or employment within the city is preferred but not required.

Sources: LA County Code Title 26 §105.1 (2022); South Pasadena Municipal Code Ch. 9; Santa Cruz Municipal Code §18.41.020; Pleasant Hill Municipal Code §3.50

The Building Board of Appeals has no regularly scheduled meetings and convenes only upon the filing of a formal written appeal of a Building Official decision, as defined by Section 105.1.2 of the adopted Building Code. The Board does not exercise any authority over the Building Official's day-to-day operations and has no jurisdiction until a formal written appeal of a specific Building Official decision is properly filed by an aggrieved party. Upon receipt of the required filing fee, the City will accept the appeal and proceed with scheduling a hearing. Attachment 4 details the appeal process, which includes the required fees.

The Building Board of Appeals has no authority to interpret administrative provisions of the Building Code (other than Section 102, which addresses unsafe buildings), and it is expressly prohibited from waiving any requirement of the Code. The Board does not have authority to review, revise, or direct the Building Official's enforcement practices, policies, or interpretations outside the context of a properly filed individual appeal.

SUMMARY: The Building Board of Appeals is a body required by the California Building Standards Code and established through the City's adopted Building Code. Its authority is limited to hearing formal appeals of specific Building Official decisions and is circumscribed by the express prohibitions set forth in Section 105.1.2 of the adopted code. The Board may not waive code requirements or interpret the Code's

administrative provisions. The Board has not been convened since its members were appointed, as no appeals have been filed. Staff presents this report for informational purposes only and does not recommend any action at this time.

ATTACHMENTS:

1. Malibu Municipal Code Section 15.04.050(A) (Amendments to Building Code – Board of Appeals Provisions)
2. City of Malibu Local Appointments List – Maddy Act Notice (Filed December 18, 2024)
3. Referenced Municipal Code Sections: Los Angeles County Title 26 §105.1; South Pasadena Municipal Code Ch. 9; Santa Cruz Municipal Code §18.41.020; Pleasant Hill Municipal Code §3.50
4. Malibu Building Board of Appeals: Applicant Process Guide

BUILDING BOARD OF APPEALS
MALIBU MUNICIPAL CODE SECTIONS

MMC Section 15.04.020 - Definitions.
"Board of appeals" means the board of appeals established by Section 105 of the Malibu building code.

MMC 15.04.050 - Amendments to Building Code
Notwithstanding the provisions of Section 15.04.010 of this chapter, Title 26 of the Los Angeles County Code is hereby amended to read as follows:

A. Section 105.1.1 is hereby amended to read as follows:

105.1.1 General. Unless otherwise provided for below, in order to conduct the hearings provided for in this code and also to determine the suitability of alternate materials and types of construction and to provide for reasonable interpretations of the provisions of this code, there shall be a building board of appeals consisting of five members who are qualified by experience and training to pass upon matters pertaining to building construction. The building official shall be an *ex officio*-member and shall act as secretary to the board. The members of the building board of appeals shall be appointed by the City Council and shall hold office at its pleasure. The building board of appeals shall adopt reasonable rules and regulations for conducting its investigations. The board shall establish that the approval for alternate materials and the modifications granted for individual cases are in conformity with the intent and purpose of this code and that such alternate material, modification or method of work offered is at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability, safety and sanitation and does not lessen any fire-protection requirements or any degree of structural integrity. The building board of appeals shall document all decisions and findings in writing to the building official with a duplicate copy to the applicant, and the board may recommend to the City Council such new legislation as is consistent therewith.

City of Malibu

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LOCAL APPOINTMENTS LIST

CITY COUNCIL AND APPOINTED BOARDS, COMMISSIONS & COMMITTEES (Government Code Section 54972)

CITY COUNCILMEMBERS

Regular City Council meetings are held on the second and fourth Monday of each month at 5:30 p.m.

Councilmember	Elected/Re-elected	Term Expiration
Mayor Doug Stewart	November 8, 2022	November 2026
Mayor Pro Tem Marianne Riggins	November 8, 2022	November 2026
Councilmember Haylynn Conrad	November 5, 2024	November 2028
Councilmember Bruce Silverstein	November 5, 2024	November 2028
Councilmember Steve Uhring	November 5, 2024	November 2028

All regular and ongoing Boards, Commissions and Committees, which are appointed by the Malibu City Council, are as follows:

BUILDING BOARD OF APPEALS

Qualifications: Five members who are qualified by experience and training to pass upon matters pertaining to building construction. Members shall not be officers or employees of the City. Meet as needed at City Hall.

Member	Appointed	Expiration
Marissa Coughlan	January 11, 2021	Indefinite
Joseph M. Girard	January 11, 2021	Indefinite
Scott Halley	January 11, 2021	Indefinite
Lynn Heacox	January 11, 2021	Indefinite
Lisa Niles	January 9, 2023	Indefinite

Alternates:
Vacant
Vacant

BUILDING BOARD OF APPEALS
OTHER JURISDICTION CODE SECTIONS

Los Angeles County Title 26, Section 105.1

105.1.1 General
Unless otherwise provided for below, in order to conduct the hearings provided for in this Code, there shall be a Building Board of Appeals consisting of five members who are qualified by experience and training to pass upon matters pertaining to building construction. One member shall be a practicing architect, one a builder who is a licensed general contractor, one a lawyer, and two structural engineers, each of whom shall have had at least 10 years of experience as an architect, builder, lawyer, or structural engineer. The Building Official shall be an ex officio member and shall act as secretary to the Board. The members of the Building Board of Appeals shall be appointed by the Board of Supervisors and shall hold office at its pleasure. The Building Board of Appeals shall adopt reasonable rules and regulations for conducting its investigations. Each member of the Board shall be compensated for each meeting attended as provided from time to time by the County Code.

105.1.2 Scope of Authority
Except as provided below, the Building Board of Appeals shall have the authority to hear appeals regarding any action of the Building Official, including actions taken by the Building Official in connection with Section 104.2.7 or Section 104.2.8. The Building Board of Appeals shall also be authorized to recommend to the Board of Supervisors such new legislation as it deems appropriate.

The Building Board of Appeals shall have no authority relative to interpretation of the administrative portions of this Code, other than Section 102, nor shall the Board be empowered to waive requirements of this Code.

The Building Board of Appeals shall document all decisions and findings in writing to the Building Official with a duplicate copy to the applicant.

City of South Pasadena Chapter 9, Section 105.1

When a request for an alternate material has been proposed by an applicant and denied by the building official, the applicant may appeal the building official's decision to the Technical Interpretations Appeals Board no later than 60 calendar days from the date of the action being appealed.

The board shall consist of five members who are qualified by experience and training to pass upon matters pertaining to building construction. One member shall be a practicing architect, one a competent builder, one a lawyer and two shall be civil or structural engineers, each of whom shall have had at least ten years of experience as an architect, builder, lawyer or structural designer. The building official shall be an ex officio member and shall act as secretary to the board. The members of the board of appeals shall be

appointed by the City Council and shall hold office at its pleasure. The board shall adopt reasonable rules and regulations for conducting its investigations. The board shall establish that the approval for alternate materials and the modifications granted for individual cases are in conformity with the intent and purpose of this Code, relevant laws, ordinances, rules and regulations, and that such alternate material, modification or method of work offered is at least the equivalent of that prescribed in this Code, relevant laws, ordinances, rules and regulations in quality, strength, effectiveness, fire resistance, durability, safety and sanitation and does not lessen any fire-protection requirements or any degree of structural integrity. The board shall document all decisions and findings in writing to the building official with a duplicate copy to the applicant, and the board may recommend to the City Council such new legislation as is consistent therewith.

City of Santa Cruz Chapter 18.41

18.41.020 Appointment of Board and Length of Term.
The board of building and fire appeals shall consist of five regular members. Special members as listed, but not limited to those as specified, in Section 18.41.030 will serve with the regular members at the request of the regular members. The city council shall appoint all members to terms not to exceed four years. Members may be reappointed to additional consecutive terms by said council without limitation. Such board shall act voluntarily.

18.41.030 Composition of Board.

(a) Regular Members. Each member shall be licensed as an architect, engineer (structural, civil, mechanical or electrical), general building contractor, engineering contractor, electrician, plumber, or mechanical or sheet metal contractor. A nonjurisdictional building inspector (either private or of another municipality), fire inspector or similar person demonstrating a suitable technical background may be considered as an alternate member by the city council. Retired technical members demonstrating the necessary background and experience may be placed on the board as appropriate by appointment. The chief building official or, alternatively, the city fire chief, depending upon the nature of the appeal before the board, shall be an ex officio member and act as secretary, but shall have no power to vote. The chief building official and fire chief may delegate this duty to the deputy building official and fire marshal in their absence as appropriate.

Membership of the board shall include the greatest range of professional experience as may be reasonably available.

(b) Special Members. Special members shall consist of at least the following: two representatives of the disabled community; an energy contractor or representative of an energy conservation design service and a fire code professional that is nonjurisdictional.

Such special members shall be called upon from time to time by the chairperson of the board to assist in making determinations on those matters involving their particular field of expertise and shall hold full voting rights when so employed.

City of Pleasant Hill Chapter 3.50

3.50.010 Established – Composition and appointment.

A. Established. A city building board of appeals is established. This board of appeals is established under the authority of the California Building Code Section 105, adopted by the city at PHMC Chapter 14.05. Section 105 provides in part:

In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the jurisdiction. The building official shall be an ex-officio member of and shall act as secretary to said board but shall have no vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

...

The board of appeals shall have no authority relative to the interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

B. Composition. The building board of appeals shall consist of three members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the city. Those qualified include, but are not limited to, licensed contractors, engineers and architects. A member need not be a resident of the city, but residency or work in the city is preferred.

C. Appointment. The members shall be appointed by a majority vote of the city council on the recommendation of the council's interview and nominating committee.

3.50.020 Officers and ex officio member.

The chief building official, or his or her designee, shall serve as secretary to the board, and as an ex officio nonvoting member of the board.

3.50.030 Terms of office.

A member of the building board of appeals is appointed for a four-year term, or until his or her successor is appointed and qualified, whichever is later.

CITY OF MALIBU

Building Board of Appeals

Applicant Process Guide

Community Development Department • 23825 Stuart Ranch Road, Malibu, CA 90265 • (310) 456-2489

LEGAL AUTHORITY

The City of Malibu Building Board of Appeals is established pursuant to Malibu Municipal Code Section 15.04.050, which amends Section 105.1.1 of Title 26 of the Los Angeles County Building Code as adopted by the City. Section 105.1.2 of Title 26 is retained without local amendment and governs the Board's scope of authority.

Adopted Code:	Los Angeles County Building Code, Title 26 (as locally amended by Malibu Municipal Code §15.04.050)
Board Composition:	Five (5) members appointed by the City Council. Members shall be qualified by experience and training to pass upon matters pertaining to building construction. (MMC §15.04.050.A; Title 26 §105.1.1)
Building Official Role:	The Building Official shall be an ex officio member and shall act as secretary to the Board. (Title 26 §105.1.1)
Meetings:	The Board has no regular meeting schedule. It convenes only upon the filing of a formal written appeal of a Building Official decision.

SCOPE OF AUTHORITY — WHAT THE BOARD MAY HEAR

Per Section 105.1.2 of Title 26 of the Los Angeles County Building Code, as retained by the City of Malibu, the following is the Board's authority, stated as provided by the Code:

> **§105.1.2 — Scope of Authority (Title 26, as retained by City of Malibu):** *"The Building Board of Appeals shall have the authority to hear appeals regarding any action of the Building Official, including actions taken by the Building Official in connection with Section 104.2.7 or Section 104.2.8. The Building Board of Appeals shall also be authorized to recommend to the [City Council] such new legislation as it deems appropriate. The Building Board of Appeals shall have no authority relative to interpretation of the administrative portions of this Code, other than Section 102, nor shall the Board be empowered to waive requirements of this Code. The Building Board of Appeals shall document all decisions and findings in writing to the Building Official with a duplicate copy to the applicant."*

The following table identifies each category of Building Official action that may be appealed to the Board, with the specific code basis for each:

Attachment 4

Category of Appeal	Code Basis	Limitation
Any action of the Building Official	**Title 26 §105.1.2**	*Appeal must concern a specific written decision of the Building Official.*
Approval or denial of alternate materials or alternate methods of construction	**Title 26 §104.2.7**	*The Board must find the alternate is equivalent in quality, strength, effectiveness, fire resistance, durability, safety, and sanitation, and does not lessen fire protection or structural integrity.*
Approval or rejection of research reports submitted in support of alternate materials or methods	**Title 26 §104.2.8**	*Same equivalency standard as §104.2.7 applies.*
Unsafe building determinations	**Title 26 §102**	*The only administrative section of the Code the Board is authorized to interpret. (§105.1.2)*

EXPRESS LIMITATIONS — WHAT THE BOARD MAY NOT DO

Section 105.1.2 of Title 26 of the Los Angeles County Building Code, as retained by the City of Malibu, expressly provides the following limitations on Board authority. These limitations are set by the adopted code and are not subject to modification by the Board, the City Council, or any individual Council member:

Per Title 26 §105.1.2 — The Board SHALL NOT:

1. Interpret the administrative portions of the Building Code, other than Section 102.

2. Waive any requirement of the Building Code.

   The Board has no authority to grant waivers, exceptions, or exemptions from any provision of the adopted Building Code, regardless of circumstances presented.

3. Review, direct, or modify the Building Official's day-to-day enforcement practices, policies, or procedures.

   The Board's jurisdiction is limited to appellate review of a specific, formally filed appeal of a specific Building Official decision. It does not supervise or direct the Building Official.

4. Grant original permits or make initial permit determinations.

5. Override California state law or state building standards adopted under Title 24 of the California Code of Regulations.

> *Variances from code requirements must be sought through the City's Planning Commission. Formal code amendments must be adopted by the City Council through the ordinance process. Neither of these actions falls within the jurisdiction of the Building Board of Appeals.*

HOW TO FILE AN APPEAL

Step 1 — Obtain Written Decision:	You must have a written determination, decision, order, or notice from the City of Malibu Building Official. Verbal communications do not constitute a decision for appeal purposes.
Step 2 — Prepare Written Appeal:	Your written appeal must state the specific basis for the appeal, as provided by Title 26 §105.1.2 (see Scope of Authority above). Include all supporting documentation, engineering reports, or research reports you intend to rely upon at the hearing.
Step 3 — File With the City:	Submit your written appeal to the City of Malibu Community Development Department. Contact the Department to confirm current filing requirements and applicable fees prior to submission.
Step 4 — Hearing Scheduled:	Staff will coordinate with the Building Official (Board Secretary) to schedule a hearing. You will be notified in writing of the date, time, and location.
Step 5 — Attend Hearing:	Present your appeal and supporting evidence to the Board. The Building Official or designee will present the basis for the original decision. You may be represented by legal counsel or a licensed design professional.
Step 6 — Written Decision Issued:	Per Title 26 §105.1.1, the Board shall document all decisions and findings in writing to the Building Official, with a duplicate copy to the applicant.
Step 7 — Implementation:	The Building Official implements the Board's written decision.

EQUIVALENCY STANDARD — ALTERNATE MATERIALS AND METHODS (§104.2.8 / §105.1.1)

When an appeal involves alternate materials or alternate methods of construction, the Board must establish, per Title 26 §105.1.1 as adopted by Malibu Municipal Code §15.04.050, that the proposed alternate meets all of the following criteria simultaneously:

> *"The board shall establish that the approval for alternate materials and the modifications granted for individual cases are in conformity with the intent and purpose of this code and that such alternate material, modification or method of work offered is at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability, safety and sanitation and does not lessen any fire-protection requirements or any degree of structural integrity."*— Malibu Municipal Code §15.04.050.A; Title 26 §105.1.1

All seven criteria — quality, strength, effectiveness, fire resistance, durability, safety, and structural integrity — must be satisfied. The Board may not approve an alternate that lessens fire-protection requirements or any degree of structural integrity, regardless of other factors.

FILING FEE — REQUIRED AT TIME OF SUBMISSION

A filing fee is required at the time of submission of any appeal to the Building Board of Appeals. The fee is established by the City of Malibu Schedule of Fees, as adopted by the City Council by resolution, and is subject to annual adjustment. The City of Malibu administers its own fee schedule independently.

Fee Description:	Building Board of Appeals
Fee Amount:	$430.00
Fee Authority:	City of Malibu Schedule of Fees, FY 2023-24, Environmental Sustainability Department — Miscellaneous, Line Item 16 (adopted by City Council resolution, effective July 1, 2023)
Annual Adjustment:	The fee is subject to annual Consumer Price Index (CPI) adjustment. Contact the Community Development Department to confirm the current fee amount prior to submission.
Payment:	Fee is due at the time of filing. Contact the Community Development Department to confirm accepted forms of payment.

NOTE: The filing fee must be paid at the time of submission.

An appeal will not be accepted or scheduled for hearing until the required fee has been received. Contact staff at (310) 456-2489, ext. 390 to confirm the current fee amount before filing.

CONTACT

Department:	Community Development Department, Building Safety Division
Address:	23825 Stuart Ranch Road, Malibu, CA 90265
Phone:	(310) 456-2489, ext. 390
Website:	www.malibucity.org
Filing Hours:	Contact the Department to confirm current public counter hours prior to submission.

This guide is a summary reference document only. It does not constitute legal advice. All authority cited is drawn from Malibu Municipal Code §15.04.050 and the Los Angeles County Building Code, Title 26, Sections 102, 104.2.7, 104.2.8, 105.1.1, and 105.1.2, as adopted by the City of Malibu. Consult a licensed attorney for legal advice regarding your specific matter.