

# BOARD OF APPEALS

## CITY & COUNTY OF SAN FRANCISCO

### AGENDA FOR REGULAR MEETING - WEDNESDAY, JUNE 26, 2024 5:00 P.M.

#### CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

#### THE PUBLIC MAY JOIN THE MEETING IN-PERSON, BY COMPUTER (ZOOM) OR TELEPHONE [ACCESS INSTRUCTIONS CAN BE FOUND AFTER THE AGENDA ITEMS]:

Access by Computer:

<https://us02web.zoom.us/j/89335663638>

Access by Telephone:

Call: 1-669-900-6833

Webinar ID: 893 3566 3638

#### (1) PUBLIC COMMENT

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. At the discretion of the Board President, public comment and remote public participation may be limited to two minutes per person. If it is demonstrated that public comment and remote public participation will cumulatively exceed 15 minutes, the President may continue Public Comment and/or remote public participation to another time during the meeting.

#### (2) COMMISSIONER COMMENTS & QUESTIONS

#### (3) ADOPTION OF MINUTES

Discussion and possible adoption of the June 12, 2024 minutes.

#### (4) REHEARING REQUEST FOR APPEAL NO. 24-023

**Subject property at 472 Union Street.** Marc Bruno, Appellant, is requesting a rehearing of Appeal No. 24-023, MARC BRUNO vs. DEPT. OF BUILDING INSPECTION decided May 15, 2024. At that time, upon motion by Commissioner Swig, the Board voted 4-0-1 (Commissioner Eppler absent) to grant the appeal and issue the permit on the condition it be revised to required that the permit holder post notice of the work 48-hours before work commences. **Permit Holder:** Paul Boschetti. **Permit Description:** repair stairway (less than 50%) at rear, repair door in back; repair all items on Notice of Violation, Items Nos. 6 and 7, Complaint No. 202305216 to comply for violation; back stairway 50%. **Permit No.:** 2024/03/01/6943.

**(5) APPEAL NO. 23-067**

<p>MIHAL EMBERTON, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF STREET USE &amp; MAPPING, Respondent</p>	<p>201 Ashton Avenue. Appealing the ISSUANCE on December 1, 2023, to Mihal Emberton, of a Public Works Order (DENIAL of an application for a Minor Sidewalk Encroachment Permit. All items encroaching the public right-of-way shall be deconstructed and removed from the public right-of-way. The applicant did not provide updated plans with the following conditions and alterations: reduction of the fence height to three feet; three feet of clearance around the streetlight pole and box on Holloway Ave.; three feet path of travel between the trees and fence on Holloway Avenue and the removal of the approximate 10 ft x 10 ft cedar pergola and the propane fire table. The plans also need to show all features in the right-of-way such as the streetlight and box, trees, location of pavers, location of landscaping, and the altered location of the fences).</p> <p>PERMIT NO. 21MSE-00688. FOR FURTHER CONSIDERATION.</p> <p><b>Note: On February 7, 2024, upon motion by Vice President Lemberg, the Board voted 4-0-1 (Commissioner Eppler absent) to continue this matter to May 15, 2024, so that the appellant can get a survey by a licensed surveyor. The Board further directed that the survey be recorded with the County Surveyor's Office and provided to Public Works by May 2, 2024. On May 15, 2024, upon a motion by Commissioner Trasviña, the Board voted 4-0-1 (Commissioner Eppler absent) to continue this Item to June 26, 2024, so that: (1) SFPW can get some internal guidance regarding the flexibility of the department to accept certain exceptions to their order dated December 1, 2023, and (2) SFPW can work with the property owner and the Planning Department on these issues.</b></p>
--	---

**REGULAR MEETING, BOARD OF APPEALS, JUNE 26, 2024 - PAGE 3**

**(6) APPEAL NO. 24-022**

<p>100 MISSION OWNER LLC, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent</p>	<p>100 Mission Street (five trees on Mission St. frontage &amp; five trees on the same property at 60 Spear Street).</p> <p>Appealing the ISSUANCE on February 27, 2024, to 100 Mission Owner LLC, of a Public Works Order (DENIAL of an application to remove ten street trees with replacement of eight trees. The applicant seeks removal for the purpose of construction repairs to address water intrusion into the building)</p> <p>ORDER NO. 210167.</p> <p>FOR FURTHER CONSIDERATION.</p> <p><b>Note: On May 15, 2024, upon motion by President Lopez, the Board voted 4-0-1 (Commissioner Eppler absent) to continue this matter to June 26, 2024, for the following reasons: (1) to get more information from BUF as to why the tree removal application was denied by the hearing officer; (2) to get an answer from the SFMTA as to whether they can remove the Muni signal pole on Spear Street so that two more trees can be planted at this location, (3) to obtain a written statement by the appellant and BUF on whether this project is considered maintenance or development; (4) for BUF to share the development versus maintenance checklist used when evaluating projects, and (5) to get a report from BUF on the Basal Area replacement cost of the trees.</b></p>
---	--

**(7) APPEAL NO. 24-032**

<p>MIKI CRISTERNA and ART CRISTERNA, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>670 Shotwell Street.</p> <p>Appealing the ISSUANCE on April 16, 2024, to Beth Miles, of an Alteration Permit (remove one existing exterior door, remove one existing interior door; infill openings to match existing; install one new exterior F.G. single light door; install one new 4" x 6" pocket door, interior; install one new 2" x 6" swing door; interior new 6 foot fence in rear yard).</p> <p>PERMIT NO. 2024/04/09/9596.</p> <p>FOR HEARING TODAY.</p>
--	---

**ITEMS (8A) (8B) (8C) & (8D) SHALL BE HEARD TOGETHER**

**(8A) APPEAL NO. 24-017**

<p>320 ALEMANY LLC, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p>	<p>326-328 Alemany Boulevard. Appealing the ISSUANCE on February 12, 2024, to 320 Alemany LLC, of a Notice of Violation &amp; Penalty Decision (the property is in violation of the Planning Code due to non-compliance with Planning Code Sections 174, 175, 317, and 713; the subject property is currently authorized for four dwelling units with a required 593 square foot usable open space roof deck; physical alterations were undertaken without the benefit of a building permit which resulted in the construction of three Unauthorized Dwelling Units; further, no roof deck was constructed; as such, there are currently a total of seven dwelling units and no required open space). COMPLAINT NO. 2022-009942ENF. FOR HEARING TODAY.</p>
---	--

**(8B) APPEAL NO. 24-018**

<p>320 ALEMANY LLC, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p>	<p>322 Alemany Boulevard. Appealing the ISSUANCE on February 12, 2024, to 320 Alemany LLC, of a Notice of Violation &amp; Penalty Decision (the property is in violation of Planning Code Sections 174, 175, 317, and 713; the subject property is currently authorized for three dwelling units with a required 400 square foot usable open space roof deck; physical alterations were undertaken without the benefit of a building permit, which resulted, in part, in the construction of four Unauthorized Dwelling Units; as such, there are currently seven dwelling units at the subject property; additionally, the required open space has not been provided). COMPLAINT NO. 2022-009941ENF. FOR HEARING TODAY.</p>
---	--

**REGULAR MEETING, BOARD OF APPEALS, JUNE 26, 2024 - PAGE 5**

**(8C) APPEAL NO. 24-019**

<p>320 ALEMANY LLC, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p>	<p>320 Alemany Boulevard. Appealing the ISSUANCE on February 12, 2024, to 320 Alemany LLC, of a Notice of Violation &amp; Penalty Decision (the property is in violation of Planning Code Sections 174, 175, 317 &amp; 713. The subject property is currently authorized for three dwelling units with a required 400 square foot usable open space roof deck; physical alterations were undertaken without the benefit of a building permit, which resulted, in part, in the construction of three Unauthorized Dwelling Units; further, the roof deck has not been completed; as such there are currently six dwelling units at the subject property and the required open space has not been provided). COMPLAINT NO. 2022-010941ENF. FOR HEARING TODAY.</p>
---	---

**(8D) APPEAL NO. 24-020**

<p>320 ALEMANY LLC, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p>	<p>316-318 Alemany Boulevard. Appealing the ISSUANCE on February 12, 2024, to 320 Alemany LLC, of a Notice of Violation &amp; Penalty Decision (the property is in violation of Planning Code Sections 174, 175, 317, and 415; the property is currently authorized for five dwelling units, a 1,185 square foot commercial use on the ground floor, and a multi-level rear deck; physical alterations were undertaken without the benefit of a building permit, which resulted, in part, in the construction of seven Unauthorized Dwelling Units, as such, there are currently twelve dwelling units total (on all floor levels) and one commercial use on the ground floor; no affordable housing unit was provided as required; the rear deck was reconfigured and enlarged without authorization; the front and rear facades do not have the proper material installed; and aluminum windows are authorized, but vinyl windows were installed instead COMPLAINT NO. 2022-009935ENF. FOR HEARING TODAY.</p>
---	---

**ADJOURNMENT.**

## **REGULAR MEETING, BOARD OF APPEALS, JUNE 26, 2024 - PAGE 6**

**Note:** The materials for each item on this agenda may include some or all of the following documents: Preliminary Statement of Appeal; Departmental determination being appealed; briefs submitted by Appellants, Permit Holders, Respondent Departments or Other Parties; submittals by members of the public; and correspondence. These items, and any materials related to an item on this agenda that are distributed to the Board members at the hearing, are available for public inspection at the Board's website <https://sf.gov/departments/board-appeals> and upon request by emailing the Board Office [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org). Please call 628-652-1150 if you have any questions concerning this agenda.

Date posted: **June 21, 2024**

### **MEMBERS OF THE BOARD OF APPEALS**

<b>JOSE LOPEZ</b>	<b>PRESIDENT</b>
<b>ALEX LEMBERG</b>	<b>VICE PRESIDENT</b>
<b>RICK SWIG</b>	<b>COMMISSIONER</b>
<b>JOHN TRASVIÑA</b>	<b>COMMISSIONER</b>
<b>J.R. EPPLER</b>	<b>COMMISSIONER</b>

Members of the Board will attend the meeting in-person, and members of the public are invited to attend in-person, by computer, or by telephone as described above. To ensure full public participation in the Board's adjudicatory hearings, the Board will not impose a time limit on the total amount of remote public participation for any agenda items at this meeting. Each member of the public participating remotely will be subject to the three-minute, or if applicable two-minute, time limit noted above.

### **INSTRUCTIONS FOR REMOTE PUBLIC ACCESS VIA TELEPHONE OR ZOOM**

**By Telephone:** Call the phone number and enter the webinar ID listed at the top of the agenda. When you are ready to speak, please dial \*9 and this will show a raised hand. Staff will allow you to speak when it is your turn. You may have to dial \*6 to unmute yourself.

**By Zoom:** After you join the Zoom meeting, go to the bottom of the screen and click the tab that says "Reactions". You can then click on the option that says, "Raise Hand". When you are done speaking, you can select "Lower Hand" from the "Reactions" tab.

### **PROCEDURE AT HEARINGS**

Except when the Presiding Officer finds good cause to order the presentations otherwise, the order of presentation of an appeal shall be as follows: (a) the appellant shall speak first and shall be allowed

## **REGULAR MEETING, BOARD OF APPEALS, JUNE 26, 2024 - PAGE 7**

seven minutes to present relevant testimony and evidence. Then the permit holder, representatives of the department, board, commission or person from whose order the appeal is taken, and/or other parties, shall be allowed seven minutes for presentation of relevant testimony and evidence. Three minutes for rebuttal shall be provided to all parties in this same order; (b) the Board may request a departmental response at its own discretion. For rehearing requests and jurisdiction requests, each party shall be allowed three minutes to present testimony and evidence, with no rebuttal.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

Those members of the public who intend to testify about a particular appeal and wish to have the Board give their testimony evidentiary weight for purposes of deciding the appeal are asked to take an oath. Please note that any member of the public may speak without being sworn-in pursuant to their rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code).

### **SPECIAL NOTES**

The Board reserves the right not to start an item on the agenda after 10:00 p.m.

It is possible that the Board may experience technical challenges that interfere with the ability of members of the public to participate in the meeting remotely. If that happens, the Board will attempt to correct the problem but may continue with the hearing as long as the parties to an appeal are able to participate in the meeting, and members of the public attending in-person, as well as anyone who received a disability accommodation to offer remote public comment, are able to observe and offer public comment.

If the Board continues a matter to a specific date that is announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at (628) 652-1150 for scheduling or other information during regular business hours or visit our website at [www.sfgov.org/boa](http://www.sfgov.org/boa).

The complete Rules of the Board are available for review on our website.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org), no later than 4:30 p.m. one Thursday prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org). Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. Please note that names and addresses included in these submittals will become part of the public record. Submittals may be made anonymously.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled the day of hearing or are taken out of order to accommodate special needs. The Board urges all parties to be present at the hearing from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

**PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES**

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

**ACCESSIBILITY INFORMATION**

If you need technical assistance or would like to receive instruction on how to access the meeting via Zoom, please email or call the Board Office: [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org) or (628) 652-1150.

To obtain a disability-related modification or accommodation, including auxiliary aids or services to participate in the meeting, please contact the Board office at least 48 hours before the meeting at [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org) or (628) 652-1150.

American sign language interpreters, translation services and/or sound enhancement will be available upon request by contacting Board staff at (628) 652-1150 at least 48 hours prior to the hearing.

Intérpretes de lenguaje de señas americano, servicio de traducción y/o mejoramiento del sonido estará disponible a petición contactando con personal de la Junta al (628) 652-1150 por lo menos 48 horas antes de la audiencia.

美国手语翻译, 翻译服务和/或声音增强将可在聆讯前48小时通过联系652-1150局人员要求.

Ang mga tagapagsalin sa lenggwaheng pasenyas, mga serbisyong pagsasalin at/o mga gamit upang pabutihin ang pakikinig ay maaaring hilingin sa Board Staff sa (628) 652-1150 sa hindi bababa na 48 oras bago mag hearing.

**KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: by mail to Administrator, Sunshine Ordinance Task Force, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-5163; or by e-mail at [sotf@sfgov.org](mailto:sotf@sfgov.org). Citizens interested in obtaining a free copy of the Sunshine Ordinance may request a copy from the Sunshine Ordinance Task Force Administrator or by printing Chapter 67 of the San Francisco Administrative Code on the internet at [www.sfgov.org/sunshine](http://www.sfgov.org/sunshine).



**LOBBYING ACTIVITY/CAMPAIGN CONTRIBUTIONS**

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 25 Van Ness Ave., Suite 220, San Francisco, CA 94102; telephone: (415) 252-3100; email [ethics.commission@sfgov.org](mailto:ethics.commission@sfgov.org); web site [www.sfgov.org/ethics](http://www.sfgov.org/ethics).

Under Campaign and Governmental Conduct Code Section 1.127, no person or entity with a financial interest in a land use matter pending before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, Port Commission, or the Treasure Island Development Authority Board of Directors, may make a campaign contribution to a member of the Board of Supervisors, the Mayor, the City Attorney, or a candidate for any of those offices, from the date the land use matter commenced until 12 months after the board or commission has made a final decision or any appeal to another City agency from that decision has been resolved. For more information about this restriction, visit [sfethics.org](http://sfethics.org).

**SUGGESTIONS TO IMPROVE EFFICIENCY**

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Board staff, at [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org) or (628) 652-1150. A customer satisfaction survey form is available at the meetings, the Board office, and on the Board's web site, [www.sfgov.org/boa](http://www.sfgov.org/boa).

**ONLINE VIDEO STREAMING OF MEETINGS**

Online video streaming and audio and video file downloads of Board meetings are available at: [https://sanfrancisco.granicus.com/ViewPublisher.php?view\\_id=6](https://sanfrancisco.granicus.com/ViewPublisher.php?view_id=6).

**BOARD OF APPEALS  
CITY & COUNTY OF SAN FRANCISCO**  
49 South Van Ness Avenue, Suite 1475  
San Francisco, California 94103

The Board's physical office is open to the public by appointment only. Please email [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org) or call 628-652-1150 if you would like to meet with a staff member.