

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES – WEDNESDAY, JUNE 26, 2024

REGULAR MEETING (IN-PERSON AND REMOTE ACCESS VIA ZOOM)

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Jose Lopez, Vice President Alex Lemberg, Commissioner Rick Swig, Commissioner John Trasviña, and Commissioner J.R. Eppler.

Jen Huber, Deputy City Attorney, Office of the City Attorney (CAT); Corey Teague, Zoning Administrator, Planning Department (PD); Kevin Birmingham, Acting Chief Building Inspector, Department of Building Inspection (DBI); John Kwong, Engineer, San Francisco Public Works, Bureau of Street Use and Mapping (SFPW-BSM); Nicholas Crawford, Acting Superintendent, San Francisco Public Works, Bureau of Urban Forestry (SFPW-BUF); Julie Rosenberg, Executive Director; Alec Longaway, Legal Assistant.

(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.

SPEAKERS: Marc Bruno stated that people attending Board hearings by Zoom should be sworn-in.

(2) **COMMISSIONER COMMENTS & QUESTIONS**

SPEAKERS: None.

(3) **ADOPTION OF MINUTES**

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

ACTION: Upon motion by Commissioner Trasviña, the Board voted 5-0 to adopt the June 12, 2024, hearing minutes.

PUBLIC COMMENT: None.

(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.

ACTION: Upon motion by Commissioner Swig, the Board voted 5-0 to deny the rehearing request on the basis that there was neither new evidence nor manifest injustice.

SPEAKERS: Marc Bruno, requestor; Jeremy Paul, agent for permit holder; Kevin Birmingham, DBI.

PUBLIC COMMENT: None.

(5) APPEAL NO. 23-067

<p>MIHAL EMBERTON, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF STREET USE & 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). PERMIT NO. 21MSE-00688. FOR FURTHER CONSIDERATION. 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.</p>
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ACTION: Upon motion by Commissioner Swig, the Board voted 5-0 to grant the appeal and overturn the denial of the permit and reinstate review of the permit on the condition that it be revised to incorporate the conditions and requirements set forth in the brief from Public Works, dated June 13, 2024, which was submitted for the hearing, with the following modification: the pergola can remain in place subject to the Planning Department's consideration of the variance application for the pergola. This motion was made on the basis that Public Works' recommendations are consistent with the Code and Public Works' traditional behavior in similar matters.

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SPEAKERS: John Kwong, SFPW-BSM; Mihal Emberton, appellant; Corey Teague, PD.

PUBLIC COMMENT: None.

(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 & 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>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.</p>
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ACTION: Upon motion by Commissioner Swig, the Board voted 5-0 to grant the appeal and issue the order on the condition it be revised to allow for the removal of the 10 trees with replacement with 36-inch box size trees. This motion was made on the basis that it is consistent with SFPW-BUF guidelines.

SPEAKERS: Chloe Angelis, attorney for appellant; Jeffrey Luney, agent for permit holder; Nicholas Crawford, SFPW-BUF.

PUBLIC COMMENT: Pierre Lagarde spoke in support of the appellant.

David Osgood and Michael Nulty were opposed to the removal of the trees.

(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. 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). PERMIT NO. 2024/04/09/9596. FOR HEARING TODAY.</p>
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ACTION: Upon motion by Commissioner Trasviña, the Board voted 5-0 to grant the appeal and revoke the permit on the basis that it was not properly issued because DBI lacked understanding about the impact the permit would have on the appellants' property.

SPEAKERS: Miki Cristerna, appellant; Art Cristerna, appellant; Beth Miles, permit holder; James Zack, agent for permit holder; Corey Teague, PD; Kevin Birmingham, DBI.

PUBLIC COMMENT: Betsy Nolan and Michael Nulty spoke in support of the appellants.

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 & 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>
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(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 & 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>
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(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 & Penalty Decision (the property is in violation of Planning Code Sections 174, 175, 317 & 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>
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(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.</p> <p>Appealing the ISSUANCE on February 12, 2024, to 320 Alemany LLC, of a Notice of Violation & 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>
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ACTION: Upon motion by Commissioner Eppler, the Board voted 5-0 to continue these matters to August 14, 2024, at the request of the parties.

SPEAKERS: None.

PUBLIC COMMENT: None.

ADJOURNMENT.

There being no further business, President Lopez adjourned the meeting at 9:21 p.m.

The supporting documents for this meeting can be found at the following link:
<https://www.sf.gov/meeting/june-26-2024/board-appeals-hearing-june-26-2024>

A video of this meeting, can be found at the following link:
https://sanfrancisco.granicus.com/player/clip/46455?view_id=6&redirect=true