BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
DERRICK SCOCCHERA,)
Appellant(s))
)
vs.)
)
DEPARTMENT OF BUILDING INSPECTION,)
PLANNING DEPARTMENT APPROVAL Respondent

Appeal No. **22-093**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on December 6, 2022, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the ISSUANCE on November 23, 2022 to Wilson Chew, of an Alteration Permit (comply with NOV No. 202175327; replace in kind wood framed utility platform on existing roof with existing bur roofing) at 379-399 Chestnut Street.

APPLICATION NO. 2022/0614/6293

FOR HEARING ON February 1, 2023

Address of Appellant(s):	Address of Other Parties:
Derrick Scocchera, Appellant(s) 377 Chestnut Street San Francisco, CA 94133	Wilson Chew, Permit Holder(s) c/o Matt Owens, Agent for Permit Holder(s) Owens Design 60 Pastori Ave. Fairfax, CA 94930

Date Filed: December 6, 2022

CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

PRELIMINARY STATEMENT FOR APPEAL NO. 22-093

I / We, **Derrick Scocchera**, hereby appeal the following departmental action: **ISSUANCE** of **Alteration Permit No. 2022/0614/6293** by the **Department of Building Inspection** which was issued or became effective on: **November 23, 2022**, to: **Wilson Chew,** for the property located at: **379-399 Chestnut Street**.

BRIEFING SCHEDULE:

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: 4:30 p.m. on **January 12, 2023**, **(no later than three Thursdays prior to the hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, corey.teague@sfgov.org, tina.tam@sfgov.org and owensdb@sbcglobal.net.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **January 26, 2023**, **(no later than one Thursday prior to hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be doubled-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, corey.teague@sfgov.org, tina.tam@sfgov.org and derrick.scocchera@gmail.com.

Hard copies of the briefs do NOT need to be submitted to the Board Office or to the other parties.

Hearing Date: **Wednesday, February 1, 2023, 5:00 p.m., Room 416 San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place.** The parties may also attend remotely via Zoom. Information for access to the hearing will be provided before the hearing date.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any changes to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at www.sfgov.org/boa. You may also request a hard copy of the hearing materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

The reasons for this appeal are as follows:

Statement not submitted.

Derrick Scocchera, Appellant, filed the appeal by telephone.

Permit Details Report

Report Date: **12/6/2022 4:01:09 PM**

Application Number: 202206146293
Form Number: 8
Address(es): 0062 / 022 / 1 379 CHESTNUT ST
0062 / 022 / 1 399 CHESTNUT ST
Description: COMPLY W/ NOV 202175327. REPLACE IN KIND OF WOOD FRAMED UTILITY PLATF EXISTING ROOF W/ (E) BUR ROOFING.
Cost: $8,000.00
Occupancy Code: R-2
Building Use: 24 - APARTMENTS

Disposition / Stage:

Action Date	Stage	Comments
6/14/2022	TRIAGE	
6/14/2022	FILING	
6/14/2022	FILED	
11/23/2022	APPROVED	
11/23/2022	ISSUED	

Contact Details:

Contractor Details:

License Number: 1049404
Name: MEL DEAN VICTOR
Company Name: VICTOR CONSTRUCTION & ENGINEERING
Address: P O BOX 9022 * SAN RAFAEL CA 94912-0000
Phone:

Addenda Details:

Description:

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	INTAKE	6/14/22	6/14/22			6/14/22	BROWN SHARAE	
2	CP-ZOC	6/14/22	11/14/22	11/14/22	11/14/22	11/14/22	LANE EMILY	Existing roof deck seems to appear in the 1938 air requried - principal planner to decide if 10 day no planning code interp section 188. Code Section: 1 non-complying structure Effective Date: 2/08 Int 6/28/2022 - To proceed with intake, please subm Application (PRJ) and digital plans to lorabelle.cc PRJ application can be found here: https://sfplanning.org/sites/default/files/forms/ 9/20/2022 - 10-day notice issued to adjacent pro filed. 11/10/22 - Permit/plans stamped and place to DBI. Roof deck on noncomplying structure app emily.lane@sfgov.org
3	CP-NP	9/9/22	9/9/22			9/9/22	LANE EMILY	9/9/22: Mailed the 10-day notice on 9/20/22; exp (JL)
4	BLDG	11/22/22	11/22/22			11/22/22	CHEUNG JIMMY	APPROVED.
5	CES	11/22/22	11/22/22			11/22/22	PAUL MATTHEWS	
5	PERMIT-CTR	11/15/22	11/15/22			11/15/22	ESPINO HENRY	11/15/2022: Project received by Permit Center Te collect the project to continue OTC review. See en PERMITCENTER@SFGOV.ORG for instructions.
6	SFFD	11/23/22	11/23/22			11/23/22	RHAB BOUGHN	11/23/22: approved OTC; plans returned to appli
7	CPB	11/23/22	11/23/22			11/23/22	BUFKA SUSAN	

This permit has been issued. For information pertaining to this permit, please call 628-652-3450.

Appointments:

Appointment Date	Appointment AM/PM	Appointment Code	Appointment Type	Description	Time Slots

Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status

Special Inspections:

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks

For information, or to schedule an inspection, call 628-652-3400 between 8:30 am and 3:00 pm.

Station Code Descriptions and Phone Numbers

Online Permit and Complaint Tracking home page.

Technical Support for Online Services
If you need help or have a question about this service, please visit our FAQ area.

BRIEF SUBMITTED BY THE APPELLANT(S)

Appeal No.: 22-093
Appeal Title: Scocchera vs. DBI, PDA
Subject Property: 379-399 Chestnut Street
Determination or Permit Type: Alteration Permit
Determination or Permit No.: 2022/0614/6293

I live at 377 Chestnut Street (373-377 Chestnut building) where I've lived for nearly 20 years. My building and the Subject Property are built right up against each other (our West wall and their East wall). A deck built out there would have an adverse effect to put it mildly. Noise issues, lack of privacy and a number of potential liability issues. These have been addressed by the city and my building manager Catalina Wong on several occasions.

This is the third time someone has attempted to build a deck on that roof and the city has shut the project down each time for a number of reasons. There were no permits filed on the previous occasions which included putting hot tar on the roof which flooded my apartment with black smoke and the fire department needed to be called.

The current zoning laws, as they've been explained to me, state that a roof top deck has to be built 3 to 5 feet from the edge of the building, 3 to 5 feet from other structures (neighboring buildings) and 3 to 5 feet from any light wells. None of those things are possible with this location. Particularly when you're talking about a 200 square-foot deck.

Because of the steep slope of the street, their 3rd floor only goes up 2 and a half floors on my building so the deck would be right outside my windows. Because of the proximity and the fact that I have 4 windows on that side of the building, even when people are out there having a casual conversation it sounds as if

they're inside my apartment. Essentially what they're doing is building a party deck on a glorified fire escape. I, along with my downstairs neighbors in 373 Chestnut work from home and people hanging out and making noise on a deck directly outside our windows would impact our ability to make a living. We also have no guarantee that the apartment with the most direct access to the deck won't be turned into an AirBnB or other short term rental situation (as so many apartments in the City have). That would result in a constant flow of strangers having parties and gatherings without any regard for neighbors they'll never see again.

They're building a wooden structure around heating vents, they're blocking a light well and building a deck that has no views other than into the windows of the surrounding apartments. This will lead to endless noise complaints, liability and privacy issues, all of which can be prevented by denying this permit. What is the benefit of allowing this other than to appease a single building owner? There need to be considerations beyond just loopholes for non-complying structures, wouldn't you agree?

This is not a rebuild of an existing deck, it's not a deck that has been there continually since 1938 and it's certainly not a necessary structure like a wheel chair ramp or something that requires the building owner to have to spend money to completely retrofit to be up to current codes. This is an unnecessary addition to a non-complying structure with nothing but future headaches that shouldn't be grandfathered in. The codes are updated for a reason. The aerial photos consist of blurry B&W images that show the shadow of my building over

the building in question but don't clearly show a deck or any structure for that matter. It's unclear how that qualifies as Historical evidence.

The idea that an additional review might be necessary for a "rebuild" of something from 84 years ago seems reasonable.

This proposed deck would also create potential safety issues. Having a grill out there for example would not only be a fire hazard but the smoke would undoubtedly get into my apartment just as the smoke did from the tar.

I would also like to add that I've filed complaints on multiple occasions over the years, most recently on September 20th 2022 after receiving notification of the latest permit proposal. I emailed both Matt Owens and Emily Lane immediately. After receiving no response I followed up on the 28th. I eventually heard back from Emily and spoke with her but didn't hear from Matt Owens until December 30th 2022 after this appeal was filed. I responded to him on January 2nd of this year to see if we might be able to come to a resolution but have yet to hear back.

Emily Lane said in writing that we would be informed and have the right to appeal while it was still in the review process. It was only because she failed to do so that I contacted Supervisor Peskin and ultimately Julie Rosenberg and filed this appeal.

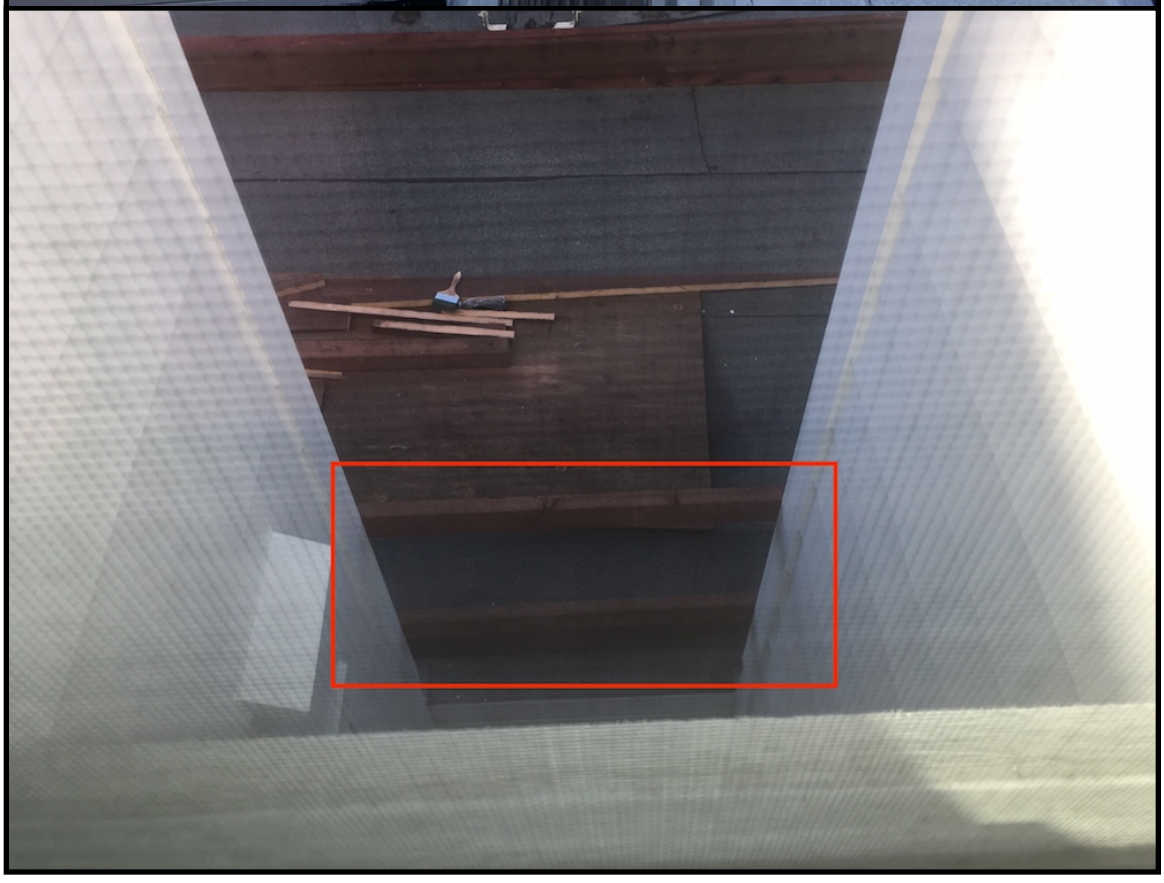
I would respectfully ask that the Board of Appeals revoke this flawed permit and prevent further attempts to build a deck at that location. Thank you for your time and consideration.

Sincerely,
Derrick Scocchera

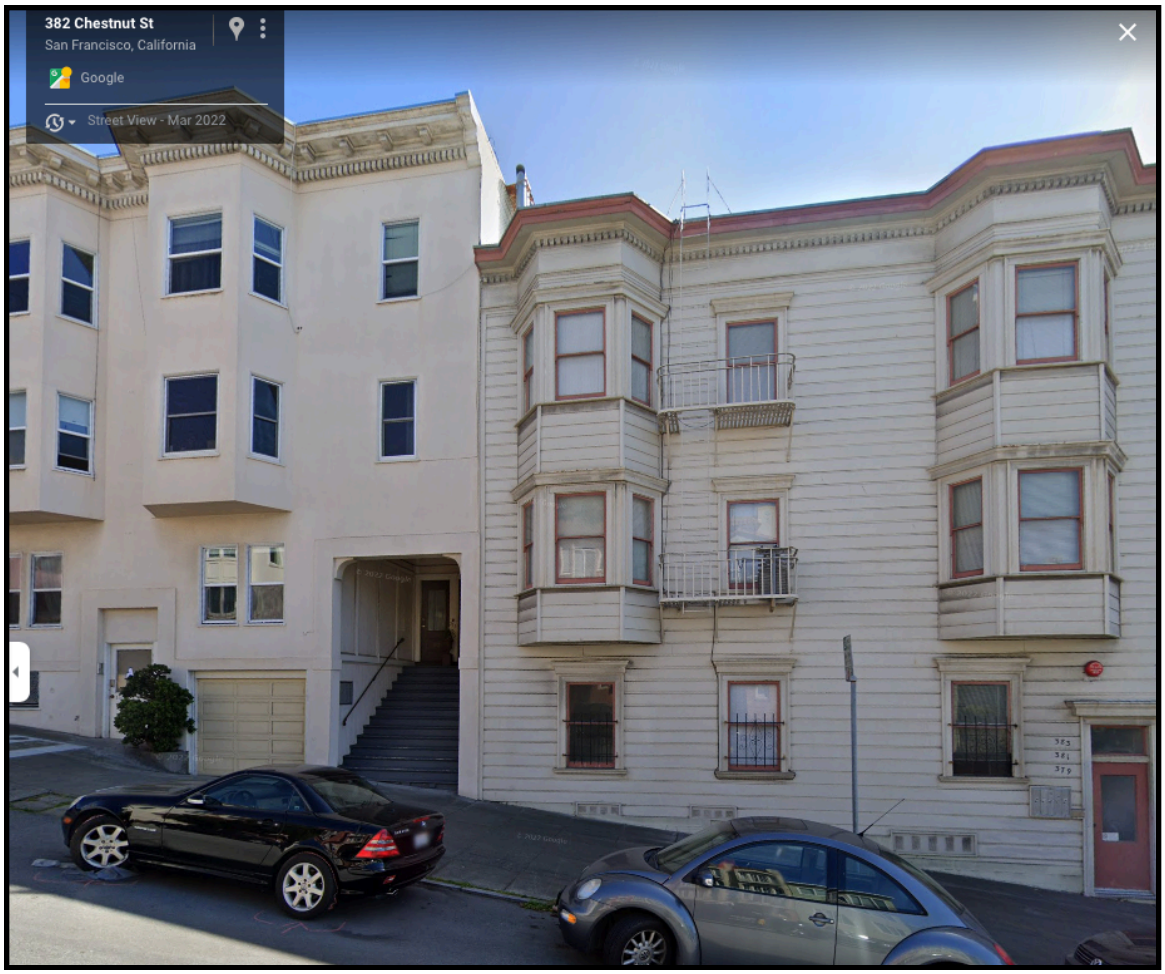
This is a view from one of my windows looking down at the “roof” during the beginning stages of one of the non-permitted builds that was eventually taken down.

This shows how they built the wooden frame around heating vents.

The next two are photos I sent to my building manager Catalina Wong showing how they'd nailed two boards across the light well and into her brand new siding most likely voiding her warranty. They also show how the deck would be built right up against the outer wall of my apartment.



This shows the difference in height between the two buildings.



This is an overall view of the location with an arrow showing the location and height of my windows. This also clearly shows that this isn't a roof in the sense that it sits atop the building but a low lying area that would block the fire escape on one side and a light well on the other.

BRIEF SUBMITTED BY THE PERMIT HOLDER(S)

OWENS DESIGN

Matt Owens
60 Pastori Ave., #27
Fairfax, CA 94930
owensdb@sbcglobal.net
415-847-6730

Respondent Brief

379-399 Chestnut Street
Roof Deck Reconstruction Proposal

Dear Board of Appeals Members,

Thank you for your time and attention to this project.

The following will offer a brief history of this proposal and why we believe that the appeal of issued building permit is without merit and that property owner has a valid standing to continue reconstruction of the roof deck in consideration tonight.

On 8/19/2019 a permit was issued for 379-399 Chestnut St. to Super Roofing Co. to remove the existing roof and replace with new. Super Roofing Co. removed the existing roof deck, old roofing and installed a new waterproof membrane. Upon completion, the property owner employed a crew to reconstruct the previous roof deck in kind. However, due to a delay of the construction, the subsequent pandemic and further health issues, the project was delayed for quite some time.

In April of 2021, the property owner employed a crew to finally rebuild the roof deck. On the 14th of April, the Dept. of Building Inspection visited the site and ordered a Stop Work order for un-permitted work. Discouraged, the owner once again dropped the project for close a year before an associate of his, Mel Victor, offered to help him with the situation. Mr. Victor subsequently contacted me to produce the drawings and documents required for the acquisition of building permit.

On the 14th Of June, I visited the DBI and was directed to the Planning desk for review of the proposal. The Planning staff at the desk, having access to historical photographs of the area, was able to see evidence of the roof being used as a public space continuously dating back to the earliest

photograph on file from 1938. However, due to the fact that the project was red-tagged, he was compelled to have it be reviewed by the Planning Staff "upstairs".

About a month later I was then contacted by Planning and asked to submit a PRJ which was submitted on July 26th. After a lengthy review, the project was given a 10-day notice for public comment which expired on 9/30/21 with no comments received. Planning finally issued an approval and a building permit was secured in November of last year and was subsequently appealed and work stopped again.

We have read and understand the concerns of the appellant. However, we strongly disagree with some of statements in his appeal, particularly the statement that the deck has not been in use historically. The building has been in the owners family for generations and the use of the deck has always been a part of the facility of the parcel. Along with the photographic evidence that was produced and verified by the SF Planning staff, we have additional photographic evidence and statements from residents of the building (attached).

The parcel is densely developed and the deck is a great benefit for the community of the residents as well as a service platform for equipment and fire safety access. The new, approved roof deck offers a safer and better looking deck than has been there before. We feel it would be an injustice to remove this long serving benefit for the residents due to the complaint of a single neighbor. Further, we are open to discuss mitigation measures for noise and privacy, within reason, and redesign the deck accordingly.

Thank you very much,

Matt Owens

January 25, 2023

To whom it may concern:

I Teresa Walden have lived at 391 Chestnut Street, San Francisco, Ca 94133 since November 8, 1989. There has always been a roof deck on the building ever since I lived here.

Teresa Walden

T. Walden

1/25/2023

January 25, 2023

To whom it may concern:

I Niall MacCormack have lived at 393 Chestnut Street, San Francisco, Ca 94133 since February 10, 1994. There has always been a roof deck on the building ever since I lived here.

Niall B MacCormack

Niall MacCormack

P.S. It was a feature that allowed more lights our apartment and was attractive to look out on every season

NBM

January 25, 2023

To whom it may concern:

I Teresa Walden have lived at 391 Chestnut Street, San Francisco, Ca 94133 since November 8, 1989. There has always been a roof deck on the building ever since I lived here.

Teresa Walden

T. Walden
1/25/2023