

FREQUENTLY ASKED QUESTIONS

1. What does the Board of Appeals (BOA) do?

- a. The BOA is a quasi-judicial body that provides the public with a final administrative review process for appeals relating to a wide range of City determinations. This is the final administrative review process.
- b. The Board hears and decides appeals involving the granting, denial, suspension, or revocation of permits, licenses, and other entitlements by various City commissions and departments. The granting or denial of variances and other determinations by the Zoning Administrator, and permits issued or denied pursuant to Discretionary Review decisions and downtown building authorizations of the Planning Commission are included.
- c. The BOA does NOT hear appeals of property tax assessments. Those types of appeals are heard by the Assessment Appeals Board. For more information about how to appeal a property tax assessment, go to the following link: <https://www.sfassessor.org/property-information/homeowners/contest-your-assessed-value#faq>

2. Who can file an appeal?

- a. Any person or group can file an appeal.
- b. Appeals cannot be filed anonymously.

3. How do I file an appeal?

- a. Email boardofappeals@sfgov.org or call (628) 652-1150. Following is a link to an overview of the appeal process: <https://sf.gov/step-by-step/overview-appeal-process>.

4. What is the deadline for filing an appeal?

- a. The time limits for filing appeals are strictly enforced.
 - i. 15 calendar days
 1. Most building and demolition permits issued, suspended, denied, revoked or cancelled by the Department of Building Inspection.
 2. Most permits issued, denied, suspended, or revoked from most other City Departments.
 - ii. 10 calendar days
 1. Variance Decisions, Reasonable Modification Decisions and Rear Yard Modification Decisions made by the Zoning Administrator must be appealed within 10 calendar days of issuance.
 2. Certain permits issued or denied by the Entertainment Commission must be appealed within 10 calendar days of issuance.
 3. Appeals of permit decisions made pursuant to Planning Code section 343 (Central SOMA Housing Sustainability District) must be filed within 10 calendar days of the permit decision.
 4. Appeals of building permits issued for Accessory Dwelling Units (ADUs) authorized by the State ADU program.
 - iii. 30 calendar days
 1. Decisions by the Zoning Administrator (other than variances, rear yard modifications or reasonable modifications) e.g. Notices of Violation, Request for Suspension, Letters of Determination.

- b. A discretionary review decision by the Planning Commission is not appealable. The related building and demolition permits, however, may be appealable when they are issued (or denied).
- c. When counting “calendar days” the appeal period begins the day after the departmental action became effective. For example, if a building permit is issued on the 3rd day of the month, the last day to appeal would be the 18th day of the month. If the last calendar day falls on a weekend or City holiday, the last day to file the appeal is the next business day. **You are strongly encouraged to call or email the Board office if you have questions or are unsure about the filing deadline for your appeal. There may be other exceptions not listed here. Please contact the Board office.**
- d. The appeal must be filed by 4:30 p.m. on the last day to file the appeal.
- e. If a permit adds housing and was filed after January 1, 2024, it is likely NOT appealable. Please confirm eligibility with Board staff.

5. Can an agent file an appeal for me?

- a. Yes, on the condition that you provide written authorization for them to file an appeal. Authorization can be emailed to boardofappeals@sfgov.org.
- b. What is an agent? Someone who acts on your behalf, for example an attorney, architect or friend.

6. What if I am unable to attend the scheduled hearing date?

- a. You can ask the other parties to reschedule it to a later date (please ask Board staff for available hearing dates). If the other parties do not agree to the later date, you may ask the Board President (through the Executive Director) to reschedule the matter to a later date. Your request must be a maximum of one page and be double-spaced with a minimum 12-point font. The other parties will have an opportunity to respond with their own one-page statement. The President will make a decision on the request.
- b. You can attend the hearing via Zoom.
- c. You can have someone else represent you at the hearing eg. attorney, architect or friend.

7. How will I be able to express my concerns to the Board?

- a. *Preliminary statement:* At the time the appeal is filed, you must set forth the reasons or grounds for the appeal and what action is being requested of the Board. Your Preliminary Statement must be double-spaced with a minimum 12-point font. The statement can be a maximum of one-page with no exhibits allowed. (Note the Preliminary Statement is filed by the appellant).
- b. *Brief:* You will have an opportunity to submit a brief outlining the reasons for your appeal. Please ensure that you follow the Board’s briefing requirements, otherwise your brief may be rejected. Briefs may be maximum of 12 pages. They must be double-spaced with a minimum 12-point font. Unlimited exhibits are permitted, however, the exhibits shall not contain any arguments.
- c. *Oral Testimony at the hearing:* You will have the opportunity to address the Board orally at the hearing and give a presentation.

8. Why should I file a brief?

- a. To properly prepare the commissioners and the other parties for the hearing.
- b. To clarify what actions, you would like the commissioners to take for the case.

- c. If an appellant does not file a brief, the responding parties may not be able to address or respond to the appellant's concerns. Further the commissioners will not be familiar with the issues going into the hearing.
- d. All briefs must be received by 4:30 p.m. on the deadline. Briefs can be a maximum of 12 pages, double-spaced, with a minimum 12-point font.
- e. The parties are strongly encouraged to file a brief.

9. What is the fee to file an appeal?

- a. Appeals usually cost:
 - i. Building permits \$175
 - ii. Planning Department decisions \$600
 - iii. Most other permits or orders \$300
- b. Board staff will confirm the cost of your appeal when you file. The filing fee can be paid online with a credit card or check. Payment may also be made by sending a check to the Board of Appeals, 49 South Van Ness, Suite 1475, SF, CA 94103.

10. What if I cannot afford to pay the filing fee?

- a. You can request a fee waiver by submitting the following form https://sf.gov/sites/default/files/2022-09/Fee%20Waiver%20Form_0.pdf
- b. Forms may be emailed to boardofappeals@sfgov.org

11. Do I need to hire an attorney?

- a. Parties are not required to be represented by attorneys, although some parties elect to hire them. Parties may be represented by architects or parties can represent themselves.

12. Where do the hearings take place?

- a. Room 416 of San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place.
- b. Parties may also attend the hearing remotely via Zoom.
- c. Hearings start at 5:00 p.m. The agenda will be published on our website the Friday before the hearing.

13. Will the public be notified of the hearing?

- a. For cases involving real property, postcards will be mailed to residents/occupants who reside within 150 of the subject property. Notice of the hearing will also be posted on our website the Friday before the hearing.

14. What can I expect at the hearing?

- a. The appellant speaks first, then the person whose permit or other determination is being appealed, and then a representative of the department that issued the determination. Each speaker is given seven minutes to present testimony and relevant evidence. There will then be a portion for public comment before moving onto rebuttal. Each party gets 3 minutes to address the Board during rebuttal. The Board will then deliberate and either make a decision or continue the matter in order for additional information to be presented.
- b. To prepare for the hearing and to become familiar with the method of presentation used, the Board recommends that the parties observe a meeting of the Board in advance of their hearing. This can be done in person or by watching a hearing on television or via computer. Meetings

are broadcast on SFGTV Cable Channels 26 or 78, and may be viewed via streaming video or on demand on the internet at: http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=6.

15. Can members of the public participate in the hearing?

- a. Members of the Public who are not parties to an appeal or affiliated with a party may have 2-3 minutes to address the Board during public comment for the case. Members of the public may also submit written materials to the Board in advance of the hearing. Ideally written public comment should be emailed to boardofappeals@sfgov.org no later than one Thursday prior to the hearing date.

16. Who makes the decision on the appeal?

- a. The Board has five commissioners who decide appeals.
- b. If the Board makes a decision on the night of the hearing (eg. granting or denying an appeal) the dissatisfied party has 12 calendar days to request a rehearing. The request must be made by 4:30 p.m. If a party does not request a rehearing by the deadline, then a written decision will be issued on the following day (13th day after the hearing). If an appeal of an issued permit has been denied, the permit will be unsuspended when the written decision by the Board is issued.

17. How many votes are needed to get an appeal granted or a permit modified?

- a. In most cases, 4 votes are required (only 3 votes if there is a vacancy (not an absence) on the Board).

18. How many votes are required to deny an appeal?

- a. The denial of an appeal can happen in two ways:
 - i. Three commissioners vote to deny the appeal.
 - ii. If there are not enough votes to grant an appeal, then the underlying permit/determination is upheld by operation of law. In effect, the appeal is denied. Eg. 3 votes to grant the appeal and 2 to deny will result in a denial of the appeal (since 4 votes are required to grant the appeal).

19. What is the Board's standard of review?

- a. In most cases, the Board reviews the departmental decision *de novo*, which means it hears the case anew and is not required to defer to the findings of fact or determinations of the underlying decision-maker. However, in appeals of decisions by the Zoning Administrator (ZA) (except for variance, rear yard and reasonable modification decisions), the City Charter requires that the Board defer to the ZA unless it finds that the ZA erred or abused his or her discretion.
- b. In limited cases, a project is subject to a streamlined, ministerial review process. This means that the Board has limited discretion.

20. How do I access the Board's historical records?

- a. Email boardofappeals@sfgov.org if you want links to particular videos or case materials. Decisions are posted on our website at the following link:
<https://www.sf.gov/departments/board-appeals>

21. What if I am dissatisfied with the Board's Decision?

- a. A party dissatisfied with the Board's decision can file a request for a rehearing.
- b. In order to get a rehearing request granted, one must show new evidence that could have changed the outcome of the hearing or establish that there is manifest injustice.
- c. Rehearing Requests are not allowed for certain types of permits. Please check with the Board Office.
- d. When requesting a rehearing, a statement must be submitted to the Board explaining why the appeal should be reheard. This statement can be up to six (6) double-spaced pages in length, with unlimited exhibits and must conform to the briefing requirements in the Rules.
- e. The other party may submit a response to the Rehearing Request no later than ten (10) days from the date the request was filed. This response may be up to six (6) double-spaced pages in length with unlimited exhibits and must conform to the briefing requirements in the Rules.
- f. At the hearing, each party will have 3 minutes to address the Board and no rebuttal.
- g. If a rehearing request is granted, then a new appeal hearing date will be scheduled.
- h. The cost to file a rehearing request is \$150. Checks may be mailed to SF Board of Appeals, 49 South Van Ness Ave., Suite 1475, San Francisco, CA 94103. (Note: the fee may be waived if the requestor qualifies based on financial considerations).
- i. Please email or call the Board Office at boardofappeals@sfgov.org or (628) 652-1150 if you have questions about this process.

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