

**Documents submitted for the hearing on August 17,
2022**

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
SPENCER GOSCH, _____)
Appellant(s))
vs.)
DEPARTMENT OF BUILDING INSPECTION, _____)
PLANNING DEPARTMENT APPROVAL Respondent

Appeal No. **22-050**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on July 8, 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 June 24, 2022 to Reed & Aleena Moulds, of an Alteration Permit (replace damaged front stair entry doors, all windows; modify width of center windows at front bay; wood windows with ogee lugs at front and exposed north façade; all other windows shall be wood; Marvin integrity; replace all clapboard to rustic siding to match majority of existing siding; create new deck at rear 3rd floor roof level) at 945-947 Minnesota Street.

APPLICATION NO. 2019/10/03/3468

FOR HEARING ON August 17, 2022

Address of Appellant(s):

Address of Other Parties:

<p>Spencer Gosch, Appellant(s) PO BOX 170221 San Francisco, CA 94117</p>	<p>Parthesh Kumer, Permit Holder (new property owner) c/o Suheil Shatara, Agent for Permit Holder(s) Shatara Architecture Inc. 890 7th Street San Francisco, CA 94107</p>
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Date Filed: July 8, 2022

**CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS**

PRELIMINARY STATEMENT FOR APPEAL NO. 22-050

I / We, **Spencer Gosch**, hereby appeal the following departmental action: **ISSUANCE** of **Alteration Permit No. 2019/10/03/3468** by the **Department of Building Inspection** which was issued or became effective on: **June 24, 2022**, to: **Reed Moulds and Aleena Moulds**, for the property located at: **945-947 Minnesota 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 **July 28, 2022, (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, suheil@shatara.com, rmoulds@gmail.com and aleenamoulds@gmail.com.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **August 11, 2022, (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 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 skg@comcast.net.

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

Hearing Date: **Wednesday, August 17, 2022, 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:

See attachment to the preliminary Statement of Appeal.

Appellant or Agent:

Signature: Via Email

Print Name: Spencer Gosch, appellant

S. K. Gosch
P. O. Box 170221
San Francisco, CA 94117
415-643-8740
July 8, 2022

San Francisco Board of Appeals
Attn: Julie Rosenberg/Alec Longaway/Xiomara Mejia
49 South Van Ness Avenue, Suite 1475
San Francisco, CA 94103

Re: Request to File Appeal of PA#201910033468

Greetings BOA:

I request to file an Appeal of PA# 201910033468 (attached), which was ISSUED on June 24, 2022.

Some of the issues on which the Appeal will be based are:

- 1.) the illegal demolition of the illegal rear addition to the building.
- 2.) problems with the legality of the Variance Process and Variance Decision 2019-005728VAR. (Note: This Variance was specifically appealed on January 27, 2021)
- 3.) Problems with errors and omissions on APPROVED plans for PA#201910033468

There will be some additional permit, and project, deficiencies stated in the brief I will prepare for the Appeal.

Please note the requested personal information is contained in my return address.

I would prefer to pay by check. I would like to know how to accomplish this and the impact of this method of payment on the timeliness of my appeal filing. I can drop off a check at your office today, if you like. Please advise ASAP what else is necessary to accomplish your acceptance of this Appeal Request by COB on July 11, 2022

Thank you all for all your help,



Spencer Gosch
Attachment: PA# 201910033468

OFFICIAL COPY



NO STUDY FEE
1925 L 500 ST
SEE ATTACHED

UNDERSIZED METER

BUILDING ENLARGEMENT DESCRIPTION
 VERTICAL
 HORIZONTAL

APPROVED FOR ISSUANCE
JUN 23 2022

BLDG 3/8
FORM

APPLICATION NUMBER
2019-1003-2408

OSHA APPROVAL REQ'D
APPROVAL NUMBER

APPLICATION FOR BUILDING PERMIT ADDITIONS, ALTERATIONS OR REPAIRS

FORM 3 OTHER AGENCIES REVIEW REQUIRED
FORM 8 OVER-THE-COUNTER ISSUANCE
NUMBER OF PLAN SETS 9/1/22

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF BUILDING INSPECTION
APPLICATION IS HEREBY MADE TO THE DEPARTMENT OF BUILDING INSPECTION OF SAN FRANCISCO FOR PERMISSION TO BUILD IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS SUBMITTED HERewith AND ACCORDING TO THE DESCRIPTION AND FOR THE PURPOSE HEREINAFTER SET FORTH.

DO NOT WRITE ABOVE THIS LINE

DATE FILED: OCT 10 3 2019
FILING FEE RECEIPT NO.: 191037988
STREET ADDRESS OF JOB: 945 - 947 Minnesota St
BLOCK & LOT: 4107/018
ESTIMATED COST OF JOB: 100000
REVISED COST: \$70,000
DATE: 5/15/22

INFORMATION TO BE FURNISHED BY ALL APPLICANTS
LEGAL DESCRIPTION OF EXISTING BUILDING

(4A) TYPE OF CONSTR. JB
(5A) NO. OF STORIES OF OCCUPANCY: 3
(6A) NO. OF BASEMENTS AND CELLARS:
(7A) PRESENT USE: Residential units
(8A) OCCUP CLASS: R3
(9A) NO. OF DWELLING UNITS: 2
DESCRIPTION OF BUILDING AFTER PROPOSED ALTERATION
(4) TYPE OF CONSTR. JB
(5) NO. OF STORIES OF OCCUPANCY: 3
(6) NO. OF BASEMENTS AND CELLARS:
(7) PROPOSED USE (LEGAL USE): Residential units
(8) OCCUP CLASS: R3
(9) NO. OF DWELLING UNITS: 2

(10) IS AUTO RUNWAY TO BE CONSTRUCTED OR ALTERED?
(11) WILL STREET SPACE BE USED DURING CONSTRUCTION?
(12) ELECTRICAL WORK TO BE PERFORMED?
(13) PLUMBING WORK TO BE PERFORMED?
(14) GENERAL CONTRACTOR: RICO GENERAL CONSTRUCTION
(15) OWNER - LESSEE (CROSS OUT ONE): VAIJRA
(16) WRITE IN DESCRIPTION OF ALL WORK TO BE PERFORMED UNDER THIS APPLICATION (REFERENCE TO PLANS IS NOT SUFFICIENT)
Replace damaged front stairs entry doors, all windows. Modify width of center windows at front bay wood window w/ ogee legs at front & exposed north facade. All other windows shall be wdr. Marlin Integrity. Replace all clayboard siding to Reshik siding to match majority of (E) side. Create (N) Deck at Rear at 3rd floor roof level. (N) Roof deck at roof level.

ADDITIONAL INFORMATION

(17) DOES THIS ALTERATION CREATE ADDITIONAL HEIGHT OR STORY TO BUILDING?
(18) IF (17) IS YES, STATE NEW HEIGHT AT CENTER LINE OF FRONT
(19) DOES THIS ALTERATION CREATE DECK OR HORIZ. EXTENSION TO BUILDING?
(20) IF (19) IS YES, STATE NEW GROUND FLOOR AREA SQ. FT.
(21) WILL SIDEWALK OVER SUB-SIDEWALK SPACE BE REPAIRED OR ALTERED?
(22) WILL BUILDING EXTEND BEYOND PROPERTY LINE?
(23) ANY OTHER EXISTING BLDG. ON LOT? IF YES, SHOW ON PLOT PLAN
(24) DOES THIS ALTERATION CONSTITUTE A CHANGE OF OCCUPANCY?
(25) ARCHITECT OR ENGINEER (DESIGN OR CONSTRUCTION): Shatara Architecture Inc
(26) CONSTRUCTION LENDER (ENTER NAME AND BRANCH DESIGNATION IF ANY. IF THERE IS NO KNOWN CONSTRUCTION LENDER, ENTER "UNKNOWN")

IMPORTANT NOTICES

No change shall be made in the character of the occupancy or use without first obtaining a Building Permit authorizing such change. See San Francisco Building Code and San Francisco Housing Code.
No portion of building or structure or scaffolding used during construction is to be closer than 6'0" to any wire containing more than 750 volts. See Sec 386, California Penal Code.
Pursuant to San Francisco Building Code, the building permit shall be posted on the job. The owner is responsible for approved plans and application being kept at building site.
Grade lines as shown on drawings accompanying this application are assumed to be correct. If actual grade lines are not the same as shown, revised drawings showing correct grade lines, cuts and fills, and complete details of retaining walls and wall footings must be submitted to this department for approval.
ANY STIPULATION REQUIRED HEREIN OR BY CODE MAY BE APPEALED.
BUILDING NOT TO BE OCCUPIED UNTIL CERTIFICATE OF FINAL COMPLETION IS POSTED ON THE BUILDING OR PERMIT OF OCCUPANCY GRANTED, WHEN REQUIRED.
APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE AN APPROVAL FOR THE ELECTRICAL WIRING OR PLUMBING INSTALLATIONS. A SEPARATE PERMIT FOR THE WIRING AND PLUMBING MUST BE OBTAINED. SEPARATE PERMITS ARE REQUIRED IF ANSWER IS "YES" TO ANY OF ABOVE QUESTIONS (10) (11) (12) (13) (15) (22) OR (24).
THIS IS NOT A BUILDING PERMIT. NO WORK SHALL BE STARTED UNTIL A BUILDING PERMIT IS ISSUED.
In dwellings, all hoisting materials must have a clearance of not less than two inches from all electrical wires or equipment.

CHECK APPROPRIATE BOX
 OWNER
 LESSEE
 CONTRACTOR
 ARCHITECT
 AGENT
 ENGINEER

APPLICANT'S CERTIFICATION

I HEREBY CERTIFY AND AGREE THAT IF A PERMIT IS ISSUED FOR THE CONSTRUCTION DESCRIBED IN THIS APPLICATION, ALL THE PROVISIONS OF THE PERMIT AND ALL LAWS AND ORDINANCES THERETO WILL BE COMPLIED WITH.

NOTICE TO APPLICANT

HOLD HARMLESS CLAUSE. The permittee(s) by acceptance of the permit, agree(s) to indemnify and hold harmless the City and County of San Francisco from and against any and all claims, demands and actions for damages resulting from operations under this permit, regardless of negligence of the City and County of San Francisco, and to assume the defense of the City and County of San Francisco against all such claims, demands or actions.

In conformity with the provisions of Section 3800 of the Labor Code of the State of California, the applicant shall have worker's compensation coverage under (I) or (II) designated below, or shall indicate item (III), (IV), or (V), whichever is applicable. If however item (V) is checked, item (IV) must be checked as well. Mark the appropriate method of compliance below.

I hereby affirm under penalty of perjury one of the following declarations:

- () I. I have and will maintain a certificate of consent to self-insure for worker's compensation, as provided by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.
- (x) II. I have and will maintain worker's compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My worker's compensation insurance carrier and policy number are: shatara
- () III. The cost of the work to be done is \$100 or less. 9023278
- () IV. I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the worker's compensation laws of California, I further acknowledge that I understand that in the event that I should become subject to the worker's compensation provisions of the Labor Code of California and fail to comply forthwith with the provisions of Section 3800 of the Labor Code, that the permit herein applied for shall be deemed revoked.
- () V. I certify as the owner (or the agent for the owner) that in the performance of the work for which this permit is issued, I will employ a contractor who complies with the worker's compensation laws of California per title, prior to the commencement of any work, will file a completed copy of this form with the Central Bureau.

Signature of Applicant or Agent: [Signature]
Date: [Blank]

OFFICIAL COPY



CONDITIONS AND STIPULATIONS

REFER TO: APPROVED: Sue Quan, DBI MAY 25 2022 BUILDING INSPECTOR, DEPT. OF BLDG. INSP.

DATE: REASON: NOTIFIED MR.

APPROVED: Facade restoration, new windows, reconstruct rear stair, new decks at 3rd fl. and roof. Subject in Historic Preservation Commission Motion # 0422 AUG 06 2021 APPROVED BY MONICA GIACOMUCCI NOTICE OF SPECIAL RESTRICTIONS 202105163A RECORDED 3.2A DEPARTMENT OF CITY PLANNING PLANNING DEPARTMENT

DATE: REASON: NOTIFIED MR.

APPROVED: BUREAU OF FIRE PREVENTION & PUBLIC SAFETY

DATE: REASON: NOTIFIED MR.

APPROVED: Reynaldo Ortega, DBI MAY 26 2022 MECHANICAL ENGINEER, DEPT. OF BLDG. INSPECTION

DATE: REASON: NOTIFIED MR.

APPROVED: Sue Quan, DBI MAY 25 2022 CIVIL ENGINEER, DEPT. OF BLDG. INSPECTION

DATE: REASON: NOTIFIED MR.

APPROVED: NO ALTERATION TO OR RECONSTRUCTION OF CITY RIGHT-OF-WAY UNDER THIS PERMIT By Kwini SFPW/BSM 6/27/21 BUREAU OF ENGINEERING

DATE: REASON: NOTIFIED MR.

APPROVED: DEPARTMENT OF PUBLIC HEALTH

DATE: REASON: NOTIFIED MR.

APPROVED: SFPUC - Please be advised Based on your plans and fixtures count, your existing water meter may be UNDERSIZED. A water meter upgrade is recommended. Please contact SFPUC - New Installations, 525 Golden Gate Ave, 2nd Floor, San Francisco, CA 94102, Tel: (415) 551-2900 for more information. SFPUC Grace Imson 6/23/2021 DEVELOPMENT AGENCY

DATE: REASON: NOTIFIED MR.

APPROVED: HOUSING INSPECTION DIVISION

DATE: REASON: NOTIFIED MR.

I agree to comply with all conditions or stipulations of the various bureaus or departments noted on this application, and attached statements of conditions or stipulations, which are hereby made a part of this application.

Number of attachments

OWNER'S AUTHORIZED AGENT

HOLD SECTION - NOTE DATES AND NAMES OF ALL PERSONS NOTIFIED DURING PROCESSING

Permit Details Report**Report Date:** 7/8/2022 11:17:50 AM

Application Number: 201910033468

Form Number: 3

Address(es): 4107 / 018 / 0 945 MINNESOTA ST

4107 / 018 / 0 947 MINNESOTA ST

Description: REPLACE DAMAGED FRONT STAIR ENTRY DOORS, ALL WINDOWS, MODIFY WIDTH OF CENTER WINDOWS @ FRONT BAY. WOOD WINDOWS W/ OGEE LUGS @ FRONT & EXPOSED NORTH FACADE. ALL OTHER WINDOWS SHALL BE WD.MARVIN INTEGRITY REPLACE ALL CLAPBOARD TO RUSTIC SIDING TO MATCH (E). CREATE (N) DECK @ REAR 3RD FL ROOF LEVEL -

Cost: \$70,000.00

Occupancy Code: R-3

Building Use: 28 - 2 FAMILY DWELLING

Disposition / Stage:

Action Date	Stage	Comments
10/3/2019	TRIAGE	
10/3/2019	FILING	
10/3/2019	FILED	
6/23/2022	PLANCHECK	
6/23/2022	APPROVED	
6/24/2022	ISSUED	

Contact Details:**Contractor Details:**

License Number: 916938

Name: IGNACIO RICO

Company Name: RICO'S GENERAL CONSTRUCTION

Address: 2543 CLINTON AV * RICHMOND CA 94804-0000

Phone: 4156858466

Addenda Details:**Description:**

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	CPB	10/3/19	10/3/19			10/3/19	SONG SUSIE	26 PGS
2	CP-ZOC	10/3/19	10/11/19	10/11/19	8/5/21	8/5/21	GIACOMUCCI MONICA	Restore front façade with new entry stairs, expanded window openings, wood windows with ogee lugs, rustic siding, and a new cornice. At rear, an existing wood exit stair will be reconstructed and a ground-floor oper area under an existing rear addition will be infilled. Rear decks at the third floor and roof with simple wood guardrails. Rustic siding. Interior work not constituting demolition under PC Sections 317 or 1005. Rear yard variance and Certificate of Appropriateness (HPC Motion No. 0422) approved at HPC hearing 8/19/2020. Request for DR heard 10/22/2020 and not taken by CPC. Variance appealed to Board of Appeals 2/8/2021 (No. 20-085); appeal not granted. Subject to Notice of Special Restrictions #2021051634. See assoc. Planning records 2019-005728COA, -VAR.
3	BLDG	8/5/21	9/14/21	9/14/21		5/5/22	KABOODANIAN HAMID	14/9/21: Not approved with commnets attached to application; reassign to Sue Quan upon departure of Hamid Kaboodanian wy 5/5/22.
4	BLDG	8/5/21	5/25/22			5/25/22	QUAN SUE	APPROVED
4	CP-NP	6/23/20	7/16/20			8/14/20	GIACOMUCCI MONICA	Notice ended 08/14/2020 with no request for DR filed.
5	MECH	9/14/21	10/21/21	5/25/22		5/26/22	ORTEGA REYNALDO	Approved paper intake permit, plans to ppc
6	DPW-BSM	10/26/21	10/27/21			10/27/21	KEVIN LI	APPROVED 10/27/21: No alteration or reconstruction of City Right-of-Way under this permit. -KL
								Capacity Charge not applicable. Existing

7	SFPUC	10/28/21	11/23/21			11/23/21	IMSON GRACE	ixture count (gpm) in the same tier as proposed fixture count (gpm). Please note the existing meter is undersized. Meter upgrade i recommended. Please contact SFPUC, New Installations, 525 Golden Gate Ave, 2nd floor, San Francisco, CA 94102, Telephone: (415) 551-2900 for more info. Route to PPC - 11/23/2021
8	PPC	5/27/22	5/27/22	5/27/22	6/17/22	6/17/22	TAING SOK-IM	6/17/22: To CPB; ST 6/2/22: To PPC hold bin at 49 S. Van Ness Ave. 5th Floor pending initials and date of updated modification of index, make appointment at sokim.taing@sfgov.org; ST 5/27/22: To PPC hold bin at 49 S. Van Ness Ave. 5th Floor pending Drawing Index update to include pages Ao.01, Ao.8 & SP, make appointment at sok-im.taing@sfgov.org; ST 5/26/22: To MECH per Sue Quan; ST 05/04/22: TO HOLD bin pending bldg & Mech approval;me 11/24/21: To hold bin pending BLDG & MECH; ST 10/28/21: To SFPUC;nl 10/26/21: To BSM;nl 9/14/21: To MECH;nl 8/5/21: To BLDG;nl 10/3/19: To DCP (w/3463); HP
9	CPB	6/17/22	6/23/22			6/24/22	SECONDEZ GRACE	6/24/22: issued. gs 6/23/22: invoiced. gs 6/23/22: approved. need payer info, contr stmt or owner builder form. gs 6/21/22: gave plans to Gary Love per his request. gs

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
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Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status
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Special Inspections:

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
0			1	CONCRETE (PLACEMENT & SAMPLING)	
0			IP5	CF2R-PLB-02-E - SINGLE DWELLING UNIT HOT WATER SYSTEM DISTRIBUTION	
0			4	REINFORCING STEEL AND PRETRESSING TENDONS	
0			5A1	SINGLE PASS FILLET WELDS < 5/16"	
0			18A	BOLTS INSTALLED IN EXISTING CONCRETE	
0			19	SHEAR WALLS AND FLOOR SYSTEMS USED AS SHEAR DIAPHRAGMS	
0			20	HOLDOWNS	
0			24A	FOUNDATIONS	
0			24B	STEEL FRAMING	
0			24E	WOOD FRAMING	

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)

S. K. Gosch
P. O. Box 170221
San Francisco, CA 94117
July 27, 2022

San Francisco Board of Appeals
49 South Van Ness Avenue, Suite 1475
San Francisco, CA 94103

Appeal 22-050 Appellant's Brief

945 Minnesota Street/ Permit Application Number 201910033468

Commissioners:

Thank you for your time and consideration. My name is Spencer Gosch and I have lived at 1076 Tennessee Street, directly behind the Subject Property, for about 25 years. I also was a Building Inspector for 28 years. I am requesting that Permit Application 201910033468 be **REVOKED and a New Master Building Permit Application, incorporating ALL permits involved in the current construction project, be required to be obtained for further work at this address. I also ask you to have the Zoning Administrator request a formal determination of legality of the former illegal structures from the Department of Building Inspection.**

The following is my brief for appealing Permit Application Number 201910033468. I believe this permit has been ISSUED in error due to:

- 1.) Lack of official determination by the Department of Building Inspection regarding the legality of the illegal structures built without permit.
- 2.) the Serial Permitting allowed by both the Planning and Building Departments that has produced multiple permits and plans that have missing, erroneous, conflicting, and obfuscating information.

- 3.) Procedural and legal "errors" made by the Zoning Administrator in approving Variance 2019-005728VAR, in violation of Sections 106(b)8) and 306.1(c)&(d), SFPC.
- 4.) Numerous errors, omissions, and obfuscations on the APPROVED plan fail to indicate that this project is in substantial compliance with San Francisco Codes.

A.) Overview

The subject property had illegal structures that were built onto the rear of the building about 50 years ago without benefit of permits, which substandard construction had deteriorated to the point of collapse [Exhibit A]. The building has presented itself to me as an abandoned building for the 20+ years I have been living here (= no impact on me, other than quiet). A developer bought the building in 2017 and multiple permits followed; the project currently has 8 outstanding Building Permits, with 4 conflicting and substandard plan sets. The 1st Developer has now sold the property to a Corporation. The Corporation has now illegally torn down the illegal structures that would have provided support for the additional construction proposed by Variance 2019-005728VAR.

I oppose the rebuilding of the illegal structures and wish to see the Open Space restored according to the Planning Code- without any illegally processed Variances granting otherwise.

B.) Background

I have requested Discretionary Review [Exhibit B] and been denied.

I have appealed the Variance to the Board of Appeals [Exhibit C] and been denied.

The illegal rear structures, which this permit was allowing to be covered with further construction, have now been demolished without permit [Exhibit D] prior to PA#201910033468 being ISSUED, in direct opposition to verbal warnings by Commissioners Swig and Honda and (then) Assistant Zoning Administrator Scott Sanchez not to do so at the BOA Variance Hearing for Appeal 20-085. Please see link to BOA Hearing for Variance Appeal 20-085 held on January 27, 2021- Item 7 for overall background in understanding this project.

https://sanfrancisco.granicus.com/player/clip/37649?view_id=6&redirect=true

C.) Building (and Planning) Departments Refusal to Acknowledge the Illegal Structures

It is a simple thing- For the era in which the illegal construction is dated (about 1970- and 1937):

“No record of permit and plans means the work is illegal.”

In spite of the simplicity, the Planning and Building Departments have refused to recognize and treat the illegal structures as such [Exhibit E]. The Zoning Administrator seems to think that a shadowy picture allegedly from 1937 indicates legality, and he has made that unofficial determination when it is not his to make. Even in 1937; no permit and plans = illegal

construction. **The legality of the illegal structures is officially determined by the Building Department based on the records they keep, not the Planning Department; DBI should be formally requested by the Planning Department to make that determination for us all.** This unrecognized illegality complicates matters as all permits and plans misrepresent the illegal

construction as legal- this is fraudulent behavior allowed by the Planning and Building Departments. As the illegal structures have now been 95% demolished without permit, they should not be allowed to be rebuilt- they have not been included in Variance 2019-005728VAR, and they were constructed without permits.

D.) Permit List

Please see [Exhibit F].

E.) Serial Permitting

Multiple permits and multiple plans allow confusion and subsequent non-code complying construction. I have asked the Building Department act responsibly in this matter and request and obtain a Master Permit [Exhibit G] and [Exhibit H], but they have refused to do so. **Please note that in my many years of experience, I have requested multiple permits be consolidated into a Master Permit on many dozens of projects without opposition. What's the problem?**

PA#201910033468 and the associated Variance are a part of a scheme to:

- 1st- Start work with a demo permit (PA# 2017102522264) to work under, then
- 2nd get an Over-the-Counter Permit? (PA# 201804095888) for \$400K,
- 3rd Revise the Foundation Work (PA# 201901100006)- and a Detail of the building.
- 4th Obtain this Permit (PA# 201910033468), an unidentified Revision to the earlier permits, to legalize the illegal, rotten falling down structures in a covert way; pretending they're legal with a Variance for more construction built over and next to the illegal construction.

5th Tear down the illegal, rotten structures under the guise of “newly found structural problems” and ask for forgiveness with a new permit. (likely PA# 202206236976)

Why the applicants have reversed Steps 2 and 3 and insulted the Board I do not know.

E.) Variance 2019-005728VAR Issues and “Errors”

Please see Exhibit B, p.3-6 and Exhibit C for specific problems previously identified with Variance 2019-005728VAR. I would like to focus on some of these as it seems the Zoning Administrator has made some “errors” that would legally invalidate his Decision.

1.) Variance Policy and Procedure

There is none. By none, I mean that there is no written, publicly vetted, Commission-approved, and Director-authorized Official Policy and Procedure for Variance Application and Decision.

What passes for Policy and Procedure is whatever some staffers want to put together at the time, and later change it at will when caprice strikes.

2.) Section 306.1(c) & (d); SFPC

However, the one requirement that the Zoning Administrator is required to do, he has not.

He is REQUIRED, per Sections 306.1(c) & (d), SFPC [Exhibit I] to vet the Variance Applications [Exhibit J] and [Exhibit K] for mis-statements. Mr. Shatara has perjured himself in his Application and stated falsehoods under Variance Findings, Items 1-5 and elsewhere.

3.) The Zoning Administrator has overlooked these falsehoods and developed his Variance Decision [Exhibit L] which Finding 5, Items 2 & 8 violates Section 101(b)2 & 8, SFPC requiring Neighborhood Character be preserved and Open Space be protected from development,

disassembling in that document about this project not affecting either. The legal and permanent removing of this Open Space from the Mid-Block Open Space Requirement and the legal and permanent reduction of the Required Rear Yard Setback are being effected under this permit before you. As the stated reason in the Variance Application is false; If there is no valid reason for a Variance, why is one being granted?

I believe that Variance Decision would not stand a legal challenge and as such it should not be allowed by the Board of Appeals. This faulty Variance is another reason to REVOKE this Permit.

G.) Plan Issues

Please see Exhibit B, p. 2-5 for specific problems previously identified with the (now) APPROVED/SUSPENDED plans for PA# 201910033468. The plans for this Permit Application are incomplete, incorrect, unprofessional, and contradictory to the other Permits' Plans. It appears to me that no Plan Review for Building Code, nor Planning Code, conformance has ever been performed on any of the Serial Permits' Plans, including this one.

H. Open Space Issues

The Mid-Block Open Space where I live already suffers from being separated from the Greater Mid-Block Open Space and being limited to only 12 properties [Exhibit M]. Recent re-zoning will remove 8 of those properties, leaving a Mid-block Open Space of only 4 lots. This remaining Mid-block Open Space will be permanently reduced by one-eighth by this permit [Exhibit N].

Planning has taken enough space from our undersized Mid-block Open Space- please don't let them take any more with this permit.

I.) Families

The use of a family to tug at your heartstrings over development issues is as old as the hills. Everybody does it and I expect the new owners to do the same for this Appeal; I urge you to take little notice of the ploy. The former owners, the Real Estate Developer, successfully used this angle in the Variance Appeal- only to turn around and sell the property to a corporation.

An additional note on families:

This project's plans indicate an easy opportunity with a few partitions and doors to create multiple units beyond the 2 units proposed- 5 perhaps.

J.) Corruption Notes

1. I was a Building Inspector with DBI for 24 years.
2. The involvement of former Chief Building Inspector and former BIC Commissioner/ Engineer Rodrigo Santos with this project is extremely troubling, due to their recent Criminal Indictments for wrongdoing involving building construction. I believe this project continues to have an "Inside Track" in spite of Mr Curran's "retirement" and Mr. Santos losing his license, which has excluded them from further direct participation in this project.
3. The Zoning Administrator knows full well that the legality of a structure is DBI's call as they control the Building Permits. Why hasn't he requested it? Why did he bungle his responsibilities with the Variance Application and Decision? Why doesn't the Variance

Process have an Official Commission-approved, Director-authorized Policy and Procedure?

4. While there may not be any outright corruption involving the Planning Department and this project, I can not understand their coddling of whichever developer owns the property and their failure to enforce the Planning Code. Ditto DBI.
5. The additional 500 square feet of living space which this Permit allows as exceptions to the standard rules would create a windfall of at least \$300,000 to the Corporation that recently bought the property- at the permanent expense of the neighboring residents, properties, and the Historic District for decades to come. Is this the purpose and proper use of the Variance Process?

K.) Summary

1. The illegal construction (now demolished) which this Permit Application would allow is oversized and out of character with the rest of the neighborhood, excepting other illegal construction. It matches the "Poster Child" shown in the Residential Guidelines of what NOT to allow, which is inset along with Exhibit A.
2. The Historic Exterior Perimeter of a Historical Structure in a Historic District is being allowed to be permanently altered.
3. Reducing the Required Rear Yard Setback and Mid-block Open Space Requirement for this property by half is excessive. Reducing the overall Mid-block Open Space Requirement by one-eighth is also excessive.

4. The illegal construction violates both the intent and spirit of the Planning Code- yet, for some unknown reason, the Zoning Administrator thinks this property deserves exemption from the normal rules of Planning Code.
5. The Variance Decision is a dissembling puff-piece which violates the General Plan regarding Neighborhood Character and Open Space; it was also processed in Violation of the Planning Code Sections 306.1(c) & (d).
6. This Permit Application and the overall Project at 945 Minnesota Street is, as is repeatedly apparent, a balled up mess of conflicting documents, none of which indicate substantial compliance with the Building Code or Planning Code; it appears to me that the plans have never actually been reviewed. Now yet another Permit Application# 202206236976 has been FILED which effect on the overall project is unknown to me as I have been unable to access the documents at this time. As both the Planning and Building Departments refuse to perform their respective duties to the community, the Board of Appeals must provide the clear direction they are unable to provide.

Please REVOKE this permit and:

- 1.) **direct the Zoning Administrator to request the Department of Building Inspection make their formal determination of the legality of the former, illegal construction, and also**
- 2.) **direct the Department of Building Inspection to require a Master Permit be applied for and obtained to consolidate all outstanding permits for this**

project under one comprehensive, explanatory, and non-contradictory set of documents.

Allow me to thank you again very much for your time and consideration.

Appreciatively,

Spencer Gosch

List of Exhibits

Exhibit A- Picture of Illegal Construction prior to Demolition

Exhibit B- Appellant's Discretionary Review Brief

Exhibit C- Appellant's Variance Appeal Brief

Exhibit D- Picture of Demolition of Illegal Structures

Exhibit E- Letters to City Attorney@ Lack of Enforcement

Exhibit F- Computer Printout of List of Permits

Exhibit G- Appellant's Letter to DBI Director

Exhibit H- Appellant's Letter to DBI Deputy Director of Permits

Exhibit I- Section 306.1(c) & (d), SF Planning Code

Exhibit J- Variance 2019-005728VAR Application

Exhibit K- Variance 2019-005728VAR Supplemental Application

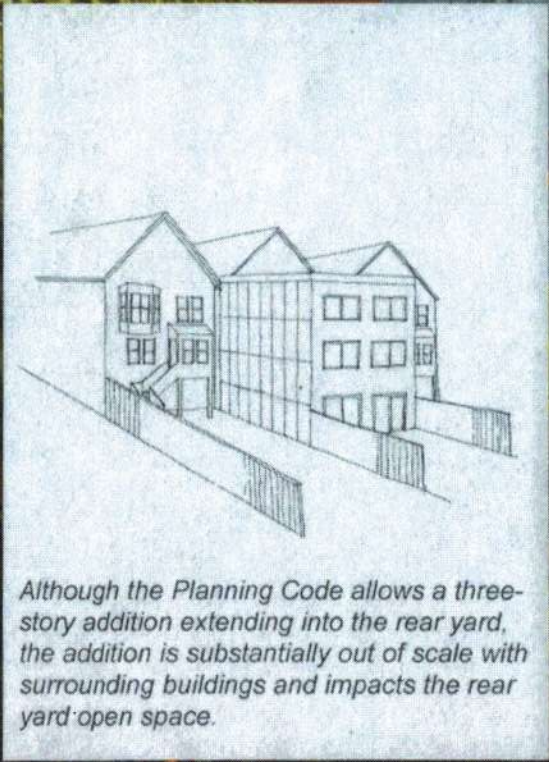
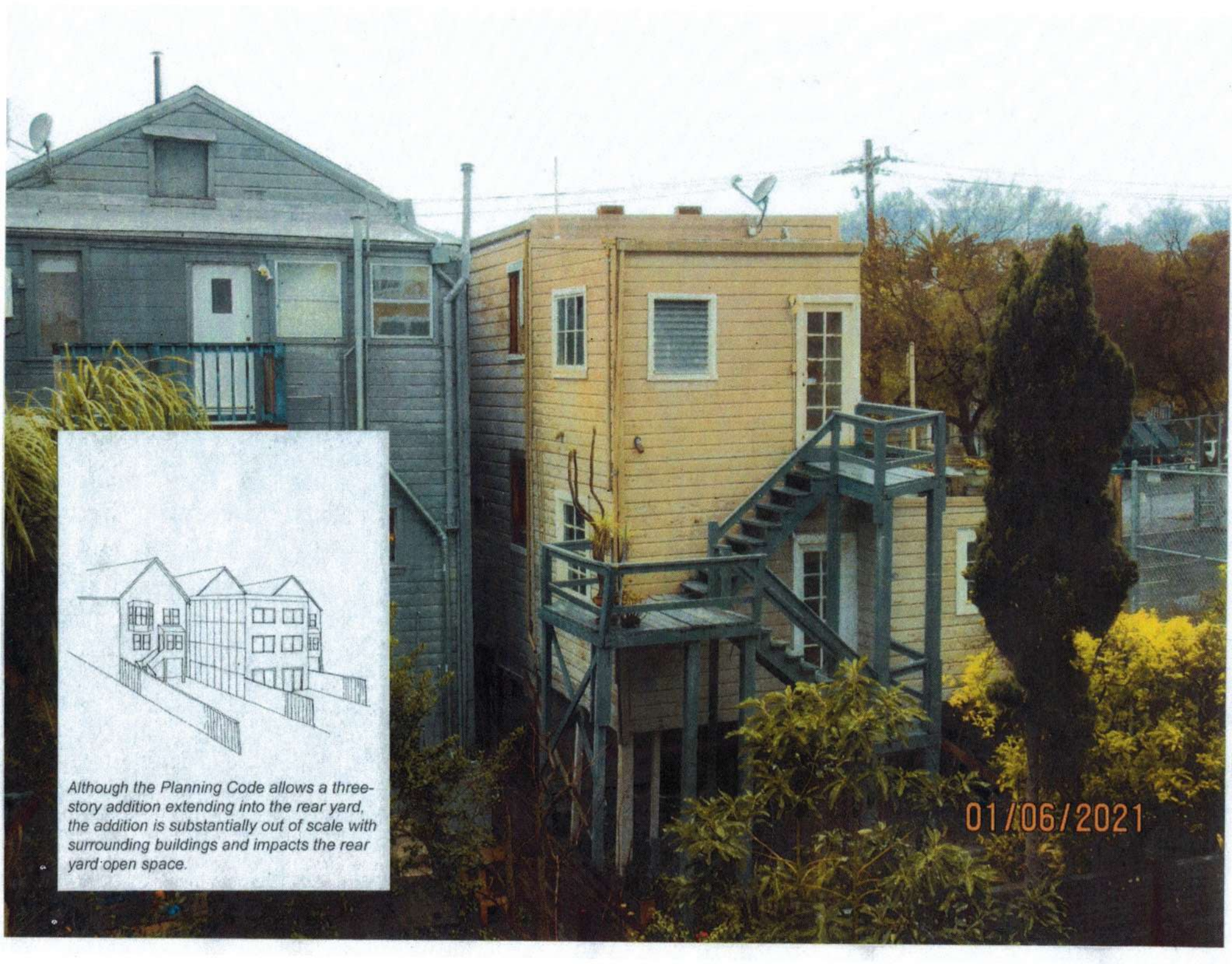
Exhibit L- Variance 2019-005728VAR Decision

Exhibit M- Block map showing Mid-block Open Space before re-zoning

Exhibit N- Block map showing Mid-block Open Space after re-zoning

EXHIBIT

A



Although the Planning Code allows a three-story addition extending into the rear yard, the addition is substantially out of scale with surrounding buildings and impacts the rear yard open space.

01/06/2021

EXHIBIT

B

945-947 Minnesota Street- Discretionary Review Applicant's Brief

A.) Purpose

My primary purpose in requesting Discretionary Review of the above referenced property is to:

- 1.) render this project fully code-complying at it's completion, and
- 2.) to obtain removal of the illegal, non-historic additions (Rear Yard Structures) and alterations (windows and openings) that have been made to the building without benefit of Building Permits and
- 3.) to restore the required rear yard setbacks and restore that contribution to the mid-block open/green space.

Secondary purposes would include obtaining the Planning Commission's oversight regarding the project as a whole, as there are numerous inconsistencies, vagaries, and concerns regarding the project as a whole, as it is currently being presented.

B.) DR Applicant Information

My name is Spencer Gosch. I have lived in San Francisco for 40 years, in the Dogpatch neighborhood for 27 years, and at my current address 22 years. I was a Building Inspector for 28 years; 24 years with the City and County of San Francisco with 10+ of those years as a full-time Plan Reviewer. I retired 6 years ago. I am unfamiliar with the San Francisco Planning Code. I have known the Project Sponsor/Applicant and Architect Suheil Shatara for in excess of 15 years as a fine gentleman and an able architect.

C.) DR Applicant's Disclaimers

My review of this project has been hampered by a lack of access to official documents as of the filing of this application; my understanding of the project is accordingly limited, as I have only been able to review what the Project Architect has seen fit to provide me. I expect to eventually gain access to the documents I request and any pertinent additional information will be forwarded for your consideration.

D.) Brief Background

I have been a tenant at this address for about 22 years. The obstructions which I wish removed were previously owned by a nice lady who never used the yard or the stair. The property had no negative impact on me. I didn't think she had much money and I didn't want to cause her trouble.

The property was sold a few years ago. With all the work being proposed and already permitted, now is the time to correct past problems and have a fully code-complying property without any special treatment. The new owner read the disclaimer in the Sales Contract about unwarranted construction, so there is no monetary burden placed on the new owner for having him remove the illegal construction. The illegal construction appears very dilapidated and would easily be demolished.

E.) Historical Issues

The property has 2 main Historical issues that concern me:

- 1.) The illegal non-historic rear additions and stairs, and
- 2.) The large number of windows located within areas generally required to be of Fire-resisitive construction with no openings (North and South Walls.) I believe that it is probable that these windows were also installed without benefit of Building Permits.

F.) Fire Issues

The building has construction that has compromised its fire-resistivity. This includes:

- 1.) The illegal construction (rear additions and stairs) is located closer to the rear property line than allowable, which would increase the likelihood of spreading fire to the building I live in.
- 2.) The large number of windows (also likely illegal) installed within walls required to be fire-protected and have fire-protected openings due to proximity of property line (within 5').

G.) Permitting Issues

Permit Application #201910033468 is a REVISION, not identified as such, to previously ISSUED P.A.#201804095888. This lack of identification as a REVISION is either an error, or evidence of "serial permitting" where numerous permits are taken out in an effort to confuse interested parties as to the nature and extent of the work. If an error, then application should be re-written to identify it as revising the earlier permit. If serial permitting, which this appears to be, then extra vigilance should be exerted by Plan Reviewers and others to see what is being obfuscated, prior to their requesting the application revision suggested.

H.) Plan Issues

The purpose of Construction Plans is to explain what will be constructed in definite terms, to explain the project to all interested parties so as to avoid confusion and expensive construction errors. There are numerous issues with the plans as submitted including: missing information, mis-information, errors, and omissions. While no plan is perfect, I would expect mostly correct, accurate, and complete plans to be submitted and approved so as to avoid any confusion. I have very briefly partially reviewed the (substandardly sized) Plans submitted under P.A. 201910033468 (revision dated 05.26.202) as provided by the Project Architect and offer some comments which should be addressed prior to further review and processing.

Some Plan Comments for P.A.#201910033468

1.) Provide separate existing and proposed Roof Plans; indicate demolition on the existing plan. Provide details and sections explaining the proposed construction at the Roof Level.

Sheets A0.0 and A1.0

Proposed Site Plan

- 2.) Lacks distinct Reference ID symbol; plan labels are switched.
- 3.) Lacks roof deck, rear yard, stair, and illegal structure dimensioning.
- 4.) Delete unnecessary dimensions (3) to the South of illegal structures.
- 5.) Provide all setback dimensions (ie: side yards and court.)

Sht. A1.1

6.) Detail 2- "Existing as Approved First Floor Plan"- this label indicates this is permit is a "serial permit." It should simply be called "Existing First Floor Plan."

This comment applies to all existing floor plans.

7.) There is no symbol in the legend for windows to be removed.

8.) Detail 1- Proposed First Floor Plan- The new door and windows that are proposed are likely not allowable due to proximity of property line and required exit path.

This comment applies to all proposed floor plans. There is no symbol in the legend for windows to be installed.

Sht. A1.4 and A1.5

9.) Rear of both elevations lack complete vertical and horizontal dimensions.

10.) See Comment #8 just above.

Sht. A1.5 and A1.6.1

11.) Provide complete horizontal and vertical stair dimensions.

Sht. A2.0.1

12.) As both P.A. 201910033468 and P.A. 101804095888 contain demolition calculations, they should be combined and viewed as a whole.

The above brief plan comments are very incomplete, but demonstrate the need for more explanatory information and revisions to drawings prior to making any decisions based on the current incomplete plans and other outstanding issues.

I.) Variance Application Issues

After review of the Variance Application I was unable to discern the reason and purpose of the Variance Application. Regardless, I consider it unjustifiable due to my comments above and below, and offer the following rebuttal addressing specific items:

- 1.) Project description- lacks requested Planning Code Section for which you are requesting a variance.
- 2.) Related Building Permits Applications- Section has been left blank.
- 3.) Variance Findings

Item #1- 24' wide lot width affects little and provides no specific problems. There is NO neighborhood pattern for buildings (encroaching) in the rear yard.

Item #2- 24' wide lot width affects little and provides no specific problems.

Item #3- The illegal rear additions and stairs were built without benefit of Building Permit; they should not be allowed to be "slipped in" with a variance based on their existence as legal which then further reduces the rear yard open space requirement.

Item #4- The "neighborhood pattern" is NOT consistent with this property. I do not understand what is "the open court mid-yard requirement" refers to. Of course this project and it's proximity is detrimental to the near neighbors (me!) as increased fire-hazard, increased noise, and decreased light and ventilation. This request to legalize illegal construction through the variance process is inappropriate and unjustified.

Item #5- Once again, in spite of the assertions otherwise, the "neighborhood pattern" differs from the proposed project. I would suspect the Master Plan to include open space and setbacks; the intent of the Planning Code is to provide such space. See Sections 101 (c) & (d), SFPC.

- 4.) Priority General Plan Policies Findings

Item #2- The project building differs from the surrounding historical properties by it's illegal rear additions, stairs, and windows.

Item #6- The property as proposed appears to present a fire hazard during an earthquake due to proximity to property line and the extensive number of unprotected openings (windows) in the North and South Exterior walls.

Item #7- The property is historic; the illegal construction is not and should be eliminated.

Item #8- The open spaces are clearly NOT being protected from development. See Sections 101 (c) & (d), Appendix L, Section 7 (b)6; SFPC.

J.) Certificate of Appropriateness Application Issues

I have reviewed the Certificate of Appropriateness Application, consider it unjustifiable, and offer the following rebuttal addressing specific items:

- 1.) Project description- lacks requested Planning Code Section for which you are requesting a variance.
- 2.) Related Building Permits Applications- Section has been left blank.

3.) Project an Land Use Tables, General Land Use Category- There is a proposed increase in residential GSF that has not been stated.

4.) Findings of Compliance with Preservation Standards Checklist

Item #1- The property has illegally been extended beyond what was historically and currently allowed.

Item #2- The illegal construction has a substantial effect on all listed features.

Item #3- The illegal construction is NOT maintaining the historic character of the property.

Item #4- The illegal construction is clearly creating a false sense of history as it is not allowed.

Item #13- The illegal construction is NOT characteristic of the property.

Item #14- The historic integrity of the building is NOT being preserved.

5.) Findings of Compliance with Preservation Standards

Item #1- The changes proposed are substantial; to (incorrectly) legitimize illegal construction through the variance process which exceeds that allowed by the Planning Code.

Item #2- The historical character of the property has already been compromised by the illegal construction, which is proposed to remain.

Item #3- The historical character of the property has already been compromised by the illegal construction, which is proposed to remain.

Item #4- What more recent historical features are being discussed?

Item #9- This Item has NOT addressed the illegal construction.

6.) Priority General Plan Policies Findings

Item #2- The proposed project is preserving illegal, non-historic construction incompatible with the neighboring buildings and the Planning Code.

Item #6- The property as proposed appears to present a fire hazard during an earthquake due to proximity to property line and the extensive number of unprotected openings (windows) in the North and South Exterior walls.

Item #7- The historical character of the property has already been compromised by the illegal construction, which is proposed to remain.

Item #8- The open spaces are clearly NOT being protected from development. See Sections 101 (c) & (d), Appendix L, Section 7 (b)6; SFPC.

K.) Personal Issues

With the property now being developed, I expect the impact on my life will be substantial. It will be more substantial if this illegal construction is allowed to continue to exist and it's use expanded, rather than (justly) remove it and have the applicant build in compliance with the current Planning Code.

The Mid-block Open/Green Space should not be diminished as it is pretty small to begin with. All neighbors adjoining this area benefit from the space that allows air to circulate and possibly some plants. We need light, air, and greenery-not some over-sized building hogging the footprint.

L.) Noticing Issues

I was not noticed of this project until my neighbor showed me their documents and I subsequently requested Planner Monica Giacomucci to include me in mailings. While I understand the Noticing Process depends on the Assessor's Records, how a flat that has been in existence for 120 years is unrecognized seems peculiar.

Further, I understand the meeting date set for the Historic Preservation Commission was changed due to the applicant's failure to post the required notice. However, no new notice was issued for the new date of August 19th. Changing a meeting without additional notification would seem to be unacceptable? When I pointed out that the current agenda for August 19th does not include the subject property, Planner Monica said it would appear on the agenda a week before the hearing. This seems inappropriate and not allowable.

M.) Conclusion

I believe I have demonstrated that there are substantial reasons for discretionary review. I am no foe to construction, but it should be done properly within the restrictions imposed by the Planning, and Building, Codes. I hope that happens in this case. Thank you for your consideration.

Spencer Gosch

945-947 Minnesota Street- Discretionary Review Applicant's Brief Supplement

Commissioners-

Thank you all for your time and the opportunity to be heard. My name is Spencer Gosch and I live behind the proposed project at 945 Minnesota Street. I am here to request removal of the illegal structures at the rear of that building as a condition of further improvements being allowed to the building.

I apologize in advance for not having mastered all the resources available technologically (PIM, Public Portal) as it proved too difficult. If I missed something that I am supposed to know that proves important, it's not that I didn't spend a lot of time trying.

My previous brief was not specific as I had hoped to obtain further information regarding the project. My intentions have been stymied by an uncooperative Developer/Property Owner refusing me access to his plans.

While all previous comments continue to be valid, I have narrowed my specific complaints for requesting removal of the illegal construction to the following 4 issues, which are then discussed further below:

- A.) Illegal construction violating numerous provisions of the Planning Code
- B.) Recent Substantial Reduction of Mid-Block Open Space
- C.) Numerous Permit, Plan, and Documentation Errors
- D.) Defense against Likely Rebuttals by Project Sponsor

A.) Illegal construction violating numerous provisions of the Planning Code

Current Planning Code Violations include:

Sections 101 (c) & (d), 101.1(b)8, 134(a) 1-4, 134(c)3, and 134(e), SFPC.

These provisions all relate either to maintaining light and air or rear yard/open space requirements.

The illegal Construction has reached the end of its life and will need to be demolished in its entirety regardless of what is determined. The new owner is proposing to replace and further develop this illegally occupied land as a part of this Permit Application. I believe

a new addition that complies with the Planning Code be allowed to take the place of the demolished illegal construction.

B.) Recent Substantial Reduction of Mid-block Open Space

1.) Our little Mid-Block Open Space is cut off from the larger Mid-Block Open Space by unregulated School Property, who has already unsympathetically sited school buildings in what would typically be a rear yard setback/Mid-block Open Space [see Attachment B.2.]

2.) Recent re-zoning along 22nd Street to NCT-2 will result in the removal of more than 50% of our small Mid-Block Open Space- [see Attachments B.1 (before) and B.2 (after).]

The Mid-Block Open Space for the area South of the unregulated School Property has been reduced down to 4 lots, one of which is much occupied by the illegal construction under discussion. In light of all the recent Government take-aways, here is the opportunity to restore some unlawfully occupied land to a Mid-block Open Space that desperately needs it.

C.) Numerous Permit, Plan, and Documentation Errors

1.) I have previously identified the plans submitted as inadequate, due to mis-information, missing information, dimensional discrepancies, etc.- in particular regarding the illegal structures at the rear of the building. This level of error by an experienced architect would almost seem purposeful.

The Permit Application under review [PA# 201910033468] is a(n) (unacknowledged) revision of previously ISSUED Permits [PA# 201804095888 and 201901100006]. The Owner/Developer's refusal to allow me access to those previously ISSUED plans have prevented my complete understanding of this project.

2.) I have presented specific issues regarding the the Variance and the Certificate of Appropriateness Applications in my previous brief. Overall, the applications seem to be presented as a mash-up of information non-specific to either application. The illegal structures are barely mentioned, either in text nor dimensioned specifically on plan.

Oddly, there is specific information regarding the Variance (33'4" Rear Yard Requirement and 17' Setback Dimension being provided) contained ONLY in the the Notice of Public Hearing for Wednesday July 15, 2020- this information was not represented on plan nor in the applications. [For the record, I believe the applicant must maintain a minimum 35' Rear Yard Setback per Section 134(e), SFPC.]

D.) Defense against Likely Rebuttals by Project Sponsor

1.) I understand the New Owner/Developer has a family, so that will likely be their argument for keeping and developing the illegal structures. A family may come and go, but once the land is legally claimed by a building it will never be relinquished or restored-if the family argument is not a ploy for development.

I offer an alternative for the space they will "lose" upon demolition of the illegal structures. This building historically had a Gable Roof. I would not object to the restoration of that design which would allow additional space and bring the building back into a historical context more appropriate to the surrounding structures and neighborhood.

2.) There is no loss of value in the valid demolition of the illegal structures. If the New Owner/Developer paid too much (not likely) for illegal construction, against the disclaimers in the sales contract, I would say they received bad advice from their experts, including themselves. New roof construction would help offset alleged value loss. The only real loss is in Development Potential, which is likely what the real issue is here.

3.) A likely argument is also that "It's been there for a long time." I will concede the point. It has no bearing on its legal standing. There was a saying in the Building Department that "You buy the problems with the property" which is how I see this case. Let's get rid of the problem now, at the appropriate time, with a New Owner/Developer attempting to further the develop the illegal spaces.

Conclusion

Please consider the small, reduced size of the Mid-block Open Spaces. Please also consider the numerous San Francisco Planning Codes being considered for permanent violation, many of which cited are in strong favor of my arguments, specifically Section 134(a)1-4, SFPC; there need be no violation of the Planning Codes. Please also consider the Public Good of many versus the personal gain of New Owners/Developer of this property. This Request is made for all of the people who live in buildings with windows opening toward the Mid-Block Open Space, present and future. Thank you for these considerations.

EXHIBIT

C

945 Minnesota Street / Case 2019-005728VAR- Variance Appellant's Brief 01-07-21

Commissioners-

Thank you for your time and considerations. My name is Spencer Gosch and I live at 1076 Tennessee Street, which is directly behind the Subject Property. I am here to request the Variance granted to 945 Minnesota Street be DENIED as it has been processed by the San Francisco Planning Department in violation of numerous provisions of the San Francisco Planning Code.

A.) Background

Please see Exhibits A, D, E, and F.

B.) Planning Department Refusal to Acknowledge the Illegal Structures

The crux of the matter is that the Planning Department has processed this Permit Application, and Variance Request, as if two illegal structures and stairs at the rear of the building are legal. **These structures are not legal.** I have researched the permit history for this property and there are neither permit nor plans for this illegal construction. I have attached a comparison of the Sanborn Map and the Current Plan [Exhibit B] which clearly indicates the illegal structures and stairs that have been constructed without benefit of permit. I have complained to the Planning Department and the Department of Building Inspection, who for unexplained reasons are refusing to enforce their respective codes [Exhibit C]. In making your determinations, the Board of Appeals should consider these structures as the illegal construction that it is, regardless of the enforcing authorities failure to perform their required duties.

C.) There is no valid reason for continued existence of the illegal construction.

The new owners/developers have not established any use of the illegal construction as they have never occupied the property. The illegal, substandard construction is dilapidated to the point of collapse. It will be torn down and there is every reason to not replace it.

D.) Problems with the Variance (from the Planning Code) Application

Below I list as Comments, prefaced by document locations, the inadequacies and misinformation provided on the Variance Application . These numerous errors should have forced the Planning Department to return the Variance Application to the Applicant for corrections, prior to any further processing. I believe these voluminous misstatements should invalidate the Variance Application, and the subsequent Variance Decision. Problems previously pointed out to the Planning Department and Commission on my 2 Discretionary Review Briefs are notated with a (DR) after the Comment.

Page 2, Project Description

- 1.) General- The required Code Sections have not been provided. (DR)
- 2.) The illegal construction has not been specified as being a part of this Variance Application, nor the rest of the Permit Application.
- 3.) The sentence “Infill below (E) nonconforming habitable space.” refers to some meaningless term that the applicant has made up. For the definition of “Nonconforming Structure” see Section 180 (a) (2), SFPC- The illegal construction does not meet that definition.

The San Francisco Building Code does not consider illegal construction to be habitable; the Planning Code has no definition of habitable space.

- 4.) The proposed New Deck at the 3rd level will be constructed on illegal construction.

Page 3, Estimated Cost

- 5.) Permit Application #201910033468, under which this Variance Application is attached, is one of a series of permit revisions; ie: Serial Permitting. The overall costs will exceed what has been stated for all the work under these permits, which totals to date approximately \$450,000.00

Page 3, Related Building Permits Applications

- 6.) There have been no related permits listed. In reality, the related permits are:
#201910033463, 201902263825, 201901100006, 201804095888, and 201710252264.

[Exhibit F] (DR)

Page 4, General Land Use Category Table

- 7.) I was unable to locate a definition in the Planning Code for “Usable Open Space.” The table section has been left blank when it should be filled?

Page 6, Variance Findings

- 8.) Item 1- The Current Plan dimensions the Lot at 25’ What is it? The lack of 12” in lot width is hardly an extraordinary circumstance, nor are the other statements. (DR)
- 9.) Item 2- Again, this is not an extraordinary circumstance warranting any special conditions. (DR)

10.) Item 3- "...built a long time ago without any records..." means illegal construction. This is the 1st mention of the illegal construction in the Variance Application. It is not specified under Project Description, other than infill the area below the "nonconforming habitable space" previously discussed under Item 3 above. (DR)

11.) Item 4- The sentence is completely false as: a.) this property with its illegal construction is inconsistent with the surrounding properties, and b.) the Mid-Block Open Space will be permanently negatively impacted by the granting of this Variance Application. See Exhibit E for Open Space discussion and plans] (DR)

12.) Item 5- See Comment #11 immediately previous. This taking of Required Rear Yard and Mid-Block Open Space is inconsistent with the General Purpose and intent of the Planning Code. See Sections 101 (b) (c), & (d); 134 (a) (1) - (4); SFPC. (DR)

Page 7, Priority General Plan Policies Findings

13.) Item 2- The applicant fails to mention the illegal construction, which is out of character with the neighborhood. (DR)

Page 8, Priority General Plan Policies Findings

14.) Item 7- The building is considered Contributory to the Historic District. Appendix L, Section 8. New construction, which the legalizing of the illegal construction would be

considered, is required to conform to existing setback patterns of the District. The illegal construction does not comply. Article 10, Appendix L, Section 7 (b) 11, SFPC. (DR)

15.) Item 8- See my Comments 11 and 12 previous, along with Exhibit E. The taking of Open Space and Access to Sunlight and vistas which is proposed under this Variance Application is the exact opposite of protecting it from development. (DR)

Page 9, Applicant's Affidavit

16.) Mr. Shatara's required signatures and date have not been provided. The Planning Department personnel receiving the application has likewise not been identified, nor the date received by the Planning Department stated. This alone invalidates this Variance Application.

E.) Problems with the Variance Decision

As in the previous Section D above, I list below as Comments, prefaced by document locations, the inadequacies, mistatements, and inconsistencies provided on the Variance Application. I have continued my numbering system through from the previous Section D.

Page 1, Description of Variance- Rear Yard Variance Sought

17.) This description does not include the illegal construction. It does include a "rear deck" and spiral stair which are proposed to be build on top of the illegal construction.

18.) Planning Code Section 134 not being enforced, as the ZA admits.

Page 1, Procedural Background

19.) Item 3- The Historic Preservation Commission has approved exterior alterations (ie: Illegal Construction) that do not comply with the Setback requirements for Historic Properties. See my Comment 14 previous. As setback dimensions are not provided on plan, it is curious how the HPC did not notice this important consideration being omitted from plan.

Page 2: Decision

20.) I was not provided with EXHIBIT A as a part of this Variance Decision, nor was it provided with the Variance Application that I received. If EXHIBIT A is Mr. Shatara's plan dated 05-26-20 consisting of 15 sheets, then I have EXHIBIT A, although an illegible 8-1/2" x 11" version.

21.) The dimensions stated for the rear stair as 11'10" wide and 22' above grade are not shown on plan. How were these dimensions determined?

22.) Item 2- This statement is meaningless considering what the Planning Department is allowing to happen to this property. Of course the vertical addition over the one-story illegal construction will be permitted shortly after P.A.# 201910033468 is ISSUED.

23.) Item 3-It is ironic that the Planning Department is requiring compliance with all applicable City Codes, excepting their own.

24.) Item 4- I strongly protest the inclusion of this statement, specifically if it allows review outside of the normal permit process.

25.) The Variance Decision, like the Variance Application, does not include the Illegal Construction. If this Variance Decision is allowed to stand, the Illegal Construction will still be illegal and subject to abatement proceedings.

Page 2, Findings

26.) Finding 1- There is nothing exceptional or extraordinary about this property, excepting the Illegal Construction. See my Comments 8 and 9 previous.

Page 3, Findings

27.) Finding 1, Requirement Met, Item A, 1st Sentence- This is an incorrect statement, as the Illegal Construction is not shown on the Sanborn Map-See Exhibit B.

28.) Finding 1, Requirement Met, Item B, 1st Sentence- This statement means nothing and should be deleted.

29.) Finding 1, Requirement Met, Item B, 2nd Sentence- This generalization has no basis in fact. And if illegal construction exists, is that a reason to allow more illegal construction?

30.) Finding 1, Requirement Met, Item C- The Rear Stairs are a Variance Issue only because the Illegal Construction is taking up the space which could provide for a code-complying stair.

31.) Finding 2- Per the Variance Application, Variance Findings 1 & 2 state that the alleged exceptional and extraordinary circumstance is that the lot is 12" less width than typical. I have stated that this is NOT extraordinary- see my Comments 8 & 9 previous. There is no practical difficulty nor unnecessary hardship caused by this minor issue.

- 32.) Finding 2, Requirement Met, Item A, 1st Sentence- Per my Comment 31 immediately previous, the stated “circumstance” is a lot width deficiency. I am unable to understand how a lot width problem on the Variance Application is transposed Finding 2, Requirement Met, Item A, 2nd Sentence a lot depth problem on the Variance Decision. See also my Comment 30 previous.
- 33.) Finding 2, Requirement Met, Item A, 2nd Sentence- I do not believe there is a definition of “adequate open space” for the buildings two residential units- this is a specious and unnecessary statement indicating some benefit when there is none.
- 34.) Finding 2, Requirement Met, Item A, 2nd Sentence- “ ..with little or no impact to the existing Mid-Block Open Space or adjacent properties.” Once again, the Illegal Construction is being treated as if it were legal. This “de facto legalization” of the Illegal Construction will have a permanent negative impact on both Mid-Block Open Space or adjacent properties. See my Comments 11, 12, and 15 previous and Exhibit E for discussion and plans.
- 35.) Finding 2, Requirement Met, Item A, Last Sentence- Remove the Illegal Construction and all constraints that require a Variance, and the Variance itself, will disappear.
- 36.) Finding 3- This Variance is NOT “necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.” No other residential property legally constructed with benefit of permit has the lot coverage of the Subject Property. The implication that illegal construction on other lots should allow this lot to exceed allowable building limits is troubling. Remove the Illegal Construction.

37.) Finding 3, Requirement Met, 1st Sentence- Remove the Illegal Construction and the stairs are no longer a Variance Item.

38.) Finding 3, Requirement Met, 2nd Sentence- The ZA thinks that obstructing the property with Illegal Construction and these further Variance Obstructions is "...improving (safety) and Open Space, especially when the Mid-Block Open Space is so interrupted by a large institutional property, and it is the owner's substantial property right ...[to "improve the Open Space with building?"] This sentence also implies that illegal construction on other properties is justification for covering this lot with construction exceeding that allowed by Code.

39.) Finding 4- I believe this Variance will be materially injurious to the property...in the vicinity. The one where I live. And the neighbors who all share our isolated and tiny Mid-Block Open Space, which is being permanently reduced in size by the Variance and the de facto Illegal Construction. This reduces light and air availability to all. See my Comments 11, 12, 15 previous, along with Exhibit E discussion and plans.

40.) Finding 4, Requirement Met, Item A- See my Comment 39 Immediately previous.

41.) Finding 4, Requirement Met, Item B- The Illegal Construction has created a property very similar to the Poster Child for "substantially out of scale with surrounding buildings and impacts the rear yard open space." as depicted on Page 27, upper left hand corner of the Residential Design Guidelines [Exhibit A]

42.) Finding 5- This Variance is in clear violation of Purpose Sections 101 (c), & (d), SFPC. Section 101(b) requiring “orderly” and “beneficial” do not seem to be adjectives particular to this Variance, nor project.

43.) Finding 5, Requirement Met, Item A- See my Comment 42 immediately previous.

44.) Finding 5, Requirement Met, Item A.7- See my Comment 19 Previous

45.) Finding 5, Requirement Met, Item A.8- This Variance is permanently and irreversibly removing portions of the rear yard, which de facto includes the area currently covered by the Illegal Construction, from an already isolated and much reduced Mid-Block Open Space. This loss to the Mid-Block Open Space is in direct violation of Planning Code Section 101.1(b) (8), SFPC; which states “ That our parks and open space and their access to sunlight and vistas be protected from development.” See also Exhibit E for Mid-Block Open Space discussion and plans.

F. Conclusion

The Variance Appeal should be granted and the Variance denied

List of Exhibits

Exhibit A- Photograph of Building Rear vs Page 27 of Residential Guidelines

Exhibit B- Comparison of Sanborn Map with the Current Plan

Exhibit C- Demand Letters to City Attorney

Exhibit D- Discretionary Review Brief

Exhibit E- Discretionary Review Brief Supplement

Exhibit F- List of Permit Application

EXHIBIT

D



05/15/2022

EXHIBIT

E

S. K. Gosch
P. O. Box 170221
San Francisco, CA 94117
December 11, 2020

Sent Certified Mail/RRR

Office of the City Attorney
Attn: Dennis Herrera, City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

**Re: 945-947 Minnesota Street/ DBI Complaint #202063081-Demand for
Enforcement of Illegal Structures by the San Francisco Department of
Building Inspection**

Dear Mr. Herrera;

As always, thank you for your time and assistance with this, and all other matters.

The above referenced building has 2 illegal additions at the rear of the property. As a former San Francisco Building Inspector with 24 years experience, I have done the research and there are neither permits nor plans for these illegal additions.

On October 26, 2020 I telephoned a formal complaint to DBI, specifying that illegal additions had been constructed at the rear of the building to both flats.

I Demand that the San Francisco Department of Building Inspection, pursuant to Sections 102A, 103A, 104A, and 106A.1, SFBC:

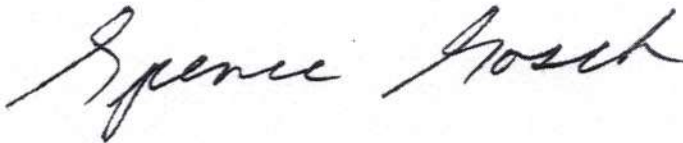
Post a Notice of Violation for the illegal construction outlined in DBI Complaint #202063081 within 25 days of the date of this letter, or I will be forced to file complaints with both the United States Attorney General and the California Attorney General for breach of public trust and malfeasance regarding this matter

I have also sent today DBI Director O'Riordan a similar Demand Letter [enclosed], also requesting that a Notice of Violation be posted within 25 calendar days of this date.

945-947 Minnesota Street
DBI Enforcement Demand Letter
December 11, 2020
Page 2 of 2

Thank you very much for your time and help.

Sincerely,

A handwritten signature in cursive script that reads "Spencer Gosch". The signature is written in dark ink and is positioned above the printed name.

Spencer Gosch

Enclosures: Demand Letter to DBI Director Patrick O'Riordan dated December 11, 2020

cc: London Breed, Mayor of San Francisco
Patrick, O'Riordan, Director, Department of Building Inspection

S. K. Gosch
P. O. Box 170221
San Francisco, CA 94117
December 9, 2020

Sent Certified Mail/RRR

Office of the City Attorney
Attn: Dennis Herrera, City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

**Re: 945-947 Minnesota Street; Demand for Enforcement of Illegal Structures by
the San Francisco Planning Department**

Dear Mr. Herrera:

As always, thank you for your time and assistance with this, and all other matters.

I have recently sent and cc'd you numerous emails concerning the above referenced property, as I have tried to make you aware that the Planning Department (DCP) is working in contravention to their own rules regarding a Permit Application under their consideration (P.A. #201910033468).

This Demand is yet another example of that willingness to not perform their duties, as required by law.

The above referenced building has 2 illegal additions at the rear of the property. As a former San Francisco Building Inspector with 24 years experience, I have done the research and there are no permits nor plans for these illegal additions.

On October 26, 2020 I submitted a formal complaint to DCP [enclosed]

I requested that the Planning Department register the complaint and follow through with noticing the building, as required by Section 176 of the San Francisco Planning Code, reproduced for your convenience in a larger font below:


~~~~~

SEC. 176. ENFORCEMENT AGAINST VIOLATIONS.

(a) **Violations Unlawful.** Any use, structure, lot, feature or condition in violation of this Code is hereby found and declared to be unlawful and a public nuisance. Should any permit or license have been issued that was not then in conformity with the provisions of this Code, such permit or license shall be null and void.

(b) **Methods of Enforcement.** The Zoning Administrator shall have authority to enforce this Code against violations thereof by any of the following actions:

(1) Serving notice requiring the cessation, removal or correction of any violation of this Code upon the owner, agent or tenant of the property that is the subject of the violation, or upon the architect, builder, contractor or other person who commits or assists in such violation;

(2) Calling upon the City Attorney to maintain an action for injunction to restrain or abatement to cause the correction or removal of any such violation, and for assessment and recovery of a civil penalty for such violation as well as any attorneys' fees or costs, including but not limited to expert witness fees, incurred in maintaining such an action;

(3) Calling upon the District Attorney to institute criminal proceedings in enforcement of this Code against any such violation; and

(4) Calling upon the Chief of Police and authorized agents to assist in the enforcement of this Code.

~~~~~

Please note there is no option within Section 176 that allows the Zoning Administrator do nothing. He has had the valid complaint for well over a month- and done nothing! I now request

945-947 Minnesota Street
DCP Enforcement Demand Letter
December 9, 2020
Page 3 of 3

an expedited process to compensate for the purposeful delay. As the illegal structures are already documented on plans for Permit Application #201910036348, which is currently under review, it would seem no inspection is necessary to verify my complaint. If visual confirmation of the illegal structures is required, it can be obtained from the adjoining City Property, which is open to the public. There is no reason for delay in the issuance of the Notice.

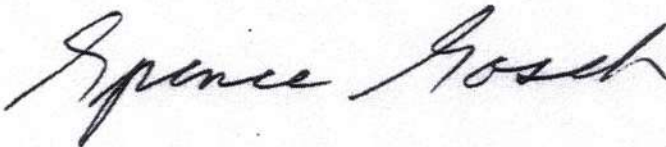
I Demand that the San Francisco Planning Department:

- 1.) Record my Complaint and mail me with a copy within 10 calendar days of the date of this Demand, and:
- 2.) Serve Notice on 945-947 Minnesota Street for violations of the Planning Code related to my complaint, and mail me with a copy of that Notice within 25 calendar days of the date of this letter.

Failure to comply with my reasonable requests will result in my filing complaints with both the United States Attorney General and the California Attorney General for the breach of public trust and malfeasance regarding this matter.

Thank you very much for your help with your client.

Sincerely,



Spencer Gosch

Enclosure: Complaint to San Francisco Planning Department dated October 23, 2020

cc: London Breed, Mayor of San Francisco
Joel Koppel, President, San Francisco Planning Commission
Rich Hillis, Director, San Francisco Planning Department
Corey Teague, Zoning Administrator, San Francisco Planning Department

EXHIBIT

F

You selected:

Address: **945 MINNESOTA ST** Block/Lot: **4107 / 018**

Please select among the following links, the type of permit for which to view address information:

[Electrical Permits](#) [Plumbing Permits](#) [Building Permits](#) [Complaints](#)

(Building permits matching the selected address.)

Permit #	Block	Lot	Street #	Street Name	Unit	Current Stage	Stage Date
201910033468	4107	018	945	MINNESOTA ST		SUSPEND	07/08/2022
202206236976	4107	018	945	MINNESOTA ST		FILED	06/23/2022
202203099634	4107	018	945	MINNESOTA ST		ISSUED	03/09/2022
201910033463	4107	018	945	MINNESOTA ST		ISSUED	11/30/2020
201902263825	4107	018	945	MINNESOTA ST		FILED	02/26/2019
201901100006	4107	018	945	MINNESOTA ST		ISSUED	01/10/2019
201804095888	4107	018	945	MINNESOTA ST		ISSUED	09/17/2018
201710252264	4107	018	945	MINNESOTA ST		ISSUED	10/26/2017

[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](#).

EXHIBIT

G

S. K. Gosch
P. O. Box 170221
San Francisco, CA 94117
November 3, 2020

Department of Building Inspection
Attn: Director Patrick O'Riorden
49 South Van Ness Avenue
San Francisco, CA 94103

**Re: 945 Minnesota Street/DBI Complaint #202063081. Request for Return
of Permit Application #201910033468 to the Department of City Planning**

Dear Director O'Riorden-

I hope this letter finds you and all your concerns well, and that you are enjoying your new position and responsibilities.

I am attaching an earlier email that I had sent to the Director of City Planning, Rich Hillis. As I'm unsure of what decisions Mr. Hillis will make, or if he will fully respond to my correspondence, I feel I must make this request of you in advance of the Permit Application being APPROVED by City Planning and forwarded to your Department for your review.

I am unable to review the Permit Application status as your Permit Tracking System has out-of-date security protection, so I'm warned.

I am writing to request that your Department return the above referenced Permit Application to the Department of City Planning (DCP) for additional processing prior to a full DBI plan review. This processing would include, at a minimum: addressing the illegal construction on plan, revising the Variance Application to reflect the illegal construction, and properly dimensioning the plan set in its entirety. I believe it is DBI's responsibility to correct the "Serial Permitting" that is being allowed to occur at this address.

A Real Estate Developer recently bought the building behind where I live and is attempting to expand the use of of some existing illegal construction. In spite of my vociferous opposition (see my 2 attached Discretionary Review Briefs), DCP has approved this Permit. The DCP refuses to acknowledge the construction as illegal. I have filed complaints, belatedly, to both Departments regarding the illegal structures. [DBI #202063081/DCP Complaint is submitted and "Under Review"]. I have researched the Permit History of the property and there is no permit to build the illegal structures. I have been denied access to complete construction documents by the Developer/Owner.

945 Minnesota Street
DBI Complaint #202063081
November 3, 2020
Page 2 of 3

I have 3 requests of you and your Department:

Request #1

I request when the Permit Application is routed to DBI that you review the plans transmitted from the Department of City Planning [Revision dated 05.26.2020] and confirm they lack the required dimensions regarding the Rear Yard Area/Illegal Construction (missing setbacks, dimensions, etc.) to allow a Plan Review and must be returned to DCP for their clarification prior to DBI reviewing the plans.

This would occur normally upon the DBI Plan Reviewer discovering the inadequacies with the plans (required per Sections 106A.3.3.2 and 106A.3.3.4, SFBC) and I shouldn't have to bring it to your attention. I am sure you will agree that plans missing setbacks, dimensions, and elevations are not approvable. I believe that they are very important in this situation as it is likely the illegal structures will be demolished and rebuilt; without the existing dimensions stated the replacement structure could very well exceed the current lot coverage.

Request #2

In addition to the lack of required dimensions, this Permit Application does not address the illegal construction, and must be returned to City Planning for them to do so.

The Variance does not address the illegal construction at the rear of the building; it is ignored and treated as if it were legal, as do the plans. The Variance should include the illegal construction as a part of the discussion, as it is the reason for the variance- if the illegal construction were removed, there would be no need for a variance.

Request #3

This Permit Application is a Revision to Permit Applications #201710252264, 201804095888 & 201901100006, but is currently not being treated as such. This constitutes "Serial Permitting", where Permit Applications get to be reviewed separately, instead of as a whole. Please note the dates under PA# 201910033468 Plan Revision Log and you will see the dates go back to the earlier permits.

I request you review this project in its entirety and require that the 4 permits are legally bound together, either by modifying the Permit Application under review to state so, or by an additional

945 Minnesota Street
DBI Complaint #202063081
November 3, 2020
Page 3 of 3

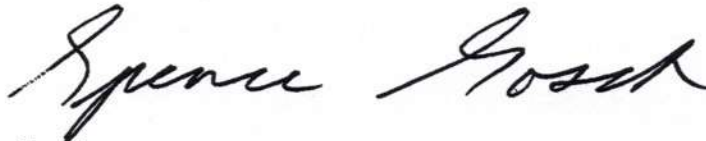
Permit Application for record-keeping. I further request that this be accomplished prior to returning this application to the Planning Department as requested above, so that Planning Department understands the full scope of the current permit in relation to the other Serial Permits.

My 2 Discretionary Review Briefs are provided for your use as background information- they also contain some Plan Review Comments of obvious errors and code violations, in addition to the dimensioning problems. Please forward them to the assigned Plan Reviewer for their possible use.

I have contacted the Office of the City Attorney and requested their involvement with this matter, as I am unable to comprehend the actions to date of the Planning Department as regards this Permit Application. Please discuss these requests with the City Attorney prior to your taking any action.

Thank you for your time and consideration.

Sincerely,



Spencer Gosch

Attachments: 1.) Gosch to Hillis email dated October 27, 2020@ 8:07 am
2.) Discretionary Review Brief
3.) Discretionary Review Brief Supplement

cc: London Breed, San Francisco Mayor
Dennis Herrera, San Francisco City Attorney
Rich Hillis, San Francisco Planning Department, Director
Joel Koppel, San Francisco Planning Commission, President

EXHIBIT

H

S. K. Gosch
P. O. Box 170221
San Francisco, CA 94117
June 7, 2022

San Francisco Department of Building Inspection
Attn: Neville Pereira, Deputy Director of Permit Services
49 Van Ness Avenue, 5th Floor
San Francisco, CA 94103

**Re: 945 Minnesota Street, Permit Application #201910033468
Request for Review/Re-review per DBI Complaint #202290991**

Greetings Deputy Director Pereira:

First, allow me to applaud you for accepting such a challenging position; I hope it proves to be rewarding in multiple ways. My name is Spencer Gosch and, as a reference for my comments, I was a Building Inspector /Plans Examiner for your Agency for some 24 plus years prior to my retirement in 2014. Thank you for your time with this matter.

I have also been an adjacent neighbor to the subject property for 20 plus years. My purpose is to have a dilapidated illegal structure removed from the property and not be re-built. The demolition of the structure has been accomplished, although illegally without benefit of Building Permit. I have been to the Planning Commission and Board of Appeals regarding the above referenced Permit Application.

As perhaps all the confusion caused by previous DBI Management has not yet been dissipated, I thought it important that I forward to you my previous letter to Director O'Riordan dated November 3, 2020 for your review and application as you see appropriate (see Separate Enclosure). I also include a narrative and some additional comments along with my Requests.

A.) Request for Review

Prior to PA#201910033468, 945 Minnesota Street Project permits have likely never been reviewed due to corruption.

- I now request that with PA#201910033468 this project be, for the 1st time, comprehensively reviewed for compliance with the San Francisco Building Code by your most expert staff.

B.) Request for New Permit Application and Suspension of Work

Per verbal Directives at the Board of Appeals (BOA) Hearing on January 27, 2021 (which video is part of the legal record) the rear illegal rear structure was allowed to remain- BUT NOT BE DEMOLISHED- which is what was done without benefit of a Building Permit.

As the above situation requires PA #201910033468 to be APPROVED and ISSUED in accordance with the BOA, no substantial modification of the Project, PA, or Plans are allowable (ie: demolishing the illegal structure.)

- Therefore, a new Permit Application to demolish and re-build the illegal structure, along with Work Description of “Renew and Revise Permit Applications #201804095888, 201901100006, 201910033463, and 201910033468” should be applied for and routed to the Planning Department.
- I further request that PA #201910033468 be reviewed as requested and processed in parallel with the new PA, and that work not be allowed to proceed until the rear structure issue is fully resolved. The new owner has chosen to do what they wish, in disregard of State and City Permit Requirements. If work is allowed to proceed under an ISSUED PA #201910033468 and/or other permits I think it likely the rear structure will re-built without benefit of permit and presented as a fait accompli.

C.) Narrative and Additional Comments

Permit Application (PA) #201910033468 (see Attachment A) is in need of review for compliance with the San Francisco Building Code prior to ISSUANCE. This PA currently shows as FILED.

PA #201910033468, is a revision to previously ISSUED PA #201804095888 (see Attachment B) [and PA#201901100006] although it is not identified as such (ie:Serial Permitting). PA #201804095888 was ISSUED Over-The-Counter (OTC) with little if any review of Building Code requirements. (see Attachment C). OTC was a notoriously corrupt method of plan review and permit approval when I was last working at DBI; I would say it made Tom Hui Director.

Please identify PA #201910033468 as the revision it is and have your best Staff do a complete and thorough plan review, so as to correct any plan errors that were not required to comply with the San Francisco Building Code under the earlier PA #201804095888 and 201901100006.

To that end, I offer some very few Plan Review Comments (see Attachment D) that I developed for my Discretionary Review Application to the Planning Commission from the sheets of plans

purported to be those for PA#201910033468 which I reviewed that were provided to me as a neighbor to the project. There are numerous dimensional errors or omissions, exclusive of other deficiencies. [Note: Please also apply my comments to any new permit/plan review submittals.]

PA# 201901100006 is ISSUED as stated as a structural revision, but the APPROVED plans (which I have not reviewed) may show additional non-structural alterations. It was processed in 1 day. I suggest that you review these plans for any inconsistencies and misinformation. Please be advised that, all things considered, that enough structural modification may have occurred as to qualify the structure as an Unlawful Demolition.

PA #201910033468 is the legal vehicle for Variance Application No. 2019-005728VAR that was granted? in a Variance Decision dated December 2, 2020 and requires that PA to be ISSUED and COMPLETED before it is legally valid. I appealed the Variance decision to the Board of Appeals on January 27, 2021. They upheld the Variance Decision, but with verbal caveats: Commissioners Honda and Swig of the Board of Appeals and Assistant Zoning Administrator Scott Sanchez all specifically warned against the demolition that has now occurred; these warnings are a part of the legal record of the proceedings of the BOA regarding this property.

Complaint # 202290991 and subsequent Notice of Violation dated May 18, 2022 involves their illegally removing a part of the structure which their Variance required to stay. This illegal demolition will require a new Permit Application to be FILED, which should also “Renew and Revise (specific list of all PA’s)” As this New Permit Application includes exterior alterations it will be routed to the Planning Department. Please be advised that I will continue to voice my opposition to any proposed replacement of the illegal rear structures that occupy the required rear yard setbacks.

Consider also the involvement of former DBI Commissioner Rodrigo Santos and former Chief Building Inspector Bernard Curran with this project. Their indictments for criminal interactions with and for your agency (see Attachment E), and Inspector Curran’s timely retirement, along with other DBI Senior Management Staff, will perhaps now allow for compliance with the San Francisco Building Code and San Francisco Planning Code at this address.

Please note that all this waste of MY time and money- everybody else is getting paid for NOT enforcing City Requirements- has been caused by:

- 1.) **lack of competent, or any, DBI review on the initial OTC PA #201804095888 and subsequent revision PA#201901100006.**

945-947 Minnesota Street

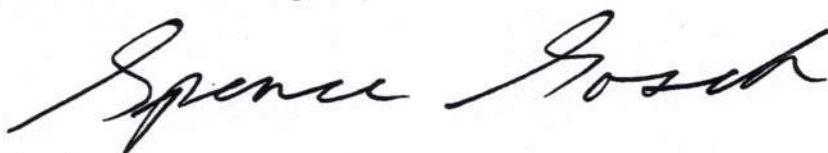
June 7, 2022

Page 4 of 4

- 2.) **Failure of DBI to refer PA#201804095888 to the Planning Department for how the illegal structure blocking up the Rear Yard got there; and**
- 3.) **the Zoning Administrator's Official Misconduct in Approving Variance Application #2019-005728VAR.**

I hope you agree with my assessments. Regardless, I appreciate the help of you and your current Staff in resolving the problems that will allow the new owner of 945 Minnesota Street to get his project quickly completed- and in full compliance with the San Francisco Building Code and Planning Code.

With Best Wishes from the Neighbor,



Spencer Gosch

Attachments

- Attachment A- Permit Details Report PA#201910033468
- Attachment B- Copy of PA# 201804095888
- Attachment C- Permit Details Report PA # 201804095888
- Attachment D- Portion of Discretionary Review Application
- Attachment E- San Francisco Chronicle (portion) dated May 8, 2022; page J3

cc w/o Separate Enclosure [forwarded previously]:

Patrick O'Riordan, Director, San Francisco Department of Building Inspection
Rich Hillis, Planning Director
London Breed, Mayor
David Chiu, City Attorney

cc: Joe Duffy, Deputy Director for Inspection Services, SFDBI
Julie Rosenberg, Director, BOA
Ben Rosenfield, San Francisco City Controller
Board of Supervisors
Cory Teague, Zoning Administrator

EXHIBIT

1

SEC. 306.1. APPLICATIONS AND FILING FEES.

(a) **Who May Initiate.** The persons and agencies that may file or otherwise initiate actions for amendments to the Planning Code, conditional uses and variances are indicated in Sections 302 through 305. The persons and agencies that may file or otherwise initiate actions for amendments to the General Plan are indicated in Section 340.

(b) **Where To File.** Applications shall be filed in the office of the Planning Department.

(c) **Content of Applications.** The content of applications shall be in accordance with the policies, rules and regulations of the Planning Department, Zoning Administrator and the Planning Commission. All applications shall be upon forms prescribed therefor, and shall contain or be accompanied by all information required to assure the presentation of pertinent facts for proper consideration of the case and for the permanent record. The applicant may be required to file with his application the information needed for the preparation and mailing of notices as specified in Section 306.3. In addition to any other information required by the Planning Department, the Zoning Administrator and the Planning Commission, an applicant for a conditional use permit or variance who proposes a commercial use for the subject property shall disclose the name under which business will be, or is expected to be, conducted at the subject property, if such name is known at the time of application. The term "known" shall mean actual, not imputed knowledge, and shall consist of direct evidence including but not limited to a contract of sale, lease, or rental, or letter of intent or agreement, between the applicant and a commercial entity. If the business name becomes known to the applicant during the conditional use permit or variance processing period, the applicant promptly shall amend the application to disclose such business name.

(d) **Verification.** Each application filed by or on behalf of one or more property owners shall be verified by at least one such owner or his authorized agent attesting to the truth and correctness of all facts, statements and information presented. All applications shall include the following statement: "The information contained in this application is true and complete to the best of my knowledge, based upon diligent inquiry. This application is signed under penalty of perjury. I understand that willful or material misstatement(s) or omissions in the application may result in the rejection of the application and a lapse of time before the application may be resubmitted." The Zoning Administrator may reject a conditional use or variance application as inaccurate and may require the applicant to re-file the application where the Zoning Administrator determines that the application includes material misstatements or omissions. Such rejection shall not be considered to be a denial of the application on its merits. Where the Zoning Administrator determines that such material misstatements or omissions were made willfully, the Zoning Administrator may require that the applicant wait up to 6 months before re-filing an application for substantially the same project. The Zoning Administrator's action in this regard may be appealed to the Board of Appeals pursuant to Section 308.2 of this Code.

(e) **Fees.** Before accepting any application for filing, the Planning Department shall charge and collect a fee as specified in Article 3.5 or Article 3.5A of this Code.

(Amended by Ord. 259-81, App. 5/15/81; Ord. 321-96, App. 8/8/96; Ord. 7-00, File No. 991428, App. 1/26/2000)

EXHIBIT

J



VARIANCE FROM THE PLANNING CODE APPLICATION

APPLICATION SUBMITTAL REQUIREMENTS

Pursuant to Planning Code Section 305, the Zoning Administrator shall hear and make determinations regarding applications for variances from the strict application of quantitative standards in the Planning Code.

Please read the Variance Informational Packet and the instructions in this application carefully before the application form is completed.

WHAT TO SUBMIT:

- One (1) original of this application signed by owner or agent, with all blanks filled in;
- One hard copy set of reduced sized (11"x17") plans, including but not limited to plans showing adjacent structures, existing and proposed floor plans, elevations, and sections. Once your project is assigned, your planner may request a full-size (24"x36") set of plans. Please see the Department's Plan Submittal Guidelines http://sf-planning.org/sites/default/files/FileCenter/Documents/8676-Plan_Submittal_Guidelines-042315.pdf for more information;
- A Letter of Authorization for Agent from the owner giving you permission to communicate with the planning department on their behalf;
- A digital copy (CD or USB drive), containing the application, project drawings, letter of authorization, etc.;
- Current or historic photograph(s) of the subject property; and
- A check made payable to the "San Francisco Planning Department" for the required intake fee amount. (See Fee Schedule and/or Calculator)

THE PRE-APPLICATION PROCESS:

The following types of projects require a Pre-Application Meeting Notification. Please be aware that a Pre-Application meeting is also required prior to filing any Planning entitlement application (i.e. Conditional Use Authorization, Variance) for:

- Projects subject to 311 or 312 Notification;
- New Construction;
- Any vertical addition of 7 feet or more;
- Any horizontal addition of 10 feet or more;
- Decks over 10 feet above grade or within the required rear yard;
- All Formula Retail uses subject to a Conditional Use Authorization;
- Community Business Priority Processing (CB3P); and
- Projects in PDR-I-G Districts subject to Section 313.

Please refer to the Pre-Application Meeting Instruction Packet for further detail or contact planning staff with questions.

HOW TO SUBMIT:

To file your Variance application, please send an email request along with the intake appointment request form to: CPC.Intake@sfgov.org. Intake request forms are available here: <http://sf-planning.org/permit-forms-applications-and-fees>.

Español: Si desea ayuda sobre cómo llenar esta solicitud en español, por favor llame al 415.575.9010. Tenga en cuenta que el Departamento de Planificación requerirá al menos un día hábil para responder

中文: 如果您希望獲得使用中文填寫這份申請表的幫助, 請致電415.575.9010。請注意, 規劃部門需要至少一個工作日來回應。

Tagalog: Kung gusto mo ng tulong sa pagkumpleto ng application na ito sa Filipino, paki tawagan ang 415.575.9121. Paki tandaan na mangangailangan ang Planning Department ng hindi kukulangin sa isang araw na pantrabaho para makasagot.



VARIANCE FROM THE PLANNING CODE APPLICATION

Property Owner's Information

Name: Reed and Aleena Moulds

Address: 73 Maple Avenue, Atherton CA 94027 Email Address: aleenapk@yahoo.com

Telephone: 415-512-7566

Applicant Information (if applicable)

Name: Suheil Shatara Same as above

Company/Organization: Shatara Architecture Inc.

Address: 890 7th Street San Francisco, CA 94107 Email Address: suheil@shataraarch.com

Telephone: 415-512-7566

Please Select Billing Contact:

Owner Applicant Other (see below for details)

Name: Reed and Aleena Moulds Email: aleenapk@yahoo.com Phone: 415-512-7566

Please Select Primary Project Contact:

Owner Applicant Billing

Property Information

Project Address: 945-947 Minnesota Street Block/Lot(s): 4107/018

Plan Area: Dog Patch

Project Description:

Please provide a narrative project description that summarizes the project and its purpose. Please state which section(s) of the Planning Code from which you are requesting a variance. Please list any special authorizations or changes to the Planning Code or Zoning Maps if applicable. See Attachment

Replace damaged front stairs, entry doors, and all windows. Modify windows at Front Bay that widen center bay windows. Wood windows to be replaced in kind at front facade with Ogee Lugs. All other windows on side and rear are to be aluminum clad wood windows (Marvin). Replace all clapboard siding to rustic siding to match majority of (S) siding. Create (N) deck at rear at existing 3rd floor roof level. Infill below (E) nonconforming habitable space. Create (N) roof deck at existing roof level.

Project Details:

- Change of Use New Construction Demolition Facade Alterations ROW Improvements
 Additions Legislative/Zoning Changes Lot Line Adjustment-Subdivision Other _____

Estimated Construction Cost: \$50,000

- Residential:** Special Needs Senior Housing 100% Affordable Student Housing Dwelling Unit Legalization
 Inclusionary Housing Required State Density Bonus Accessory Dwelling Unit

- Non-Residential:** Formula Retail Medical Cannabis Dispensary Tobacco Paraphernalia Establishment
 Financial Service Massage Establishment Other: _____

Related Building Permits Applications

Building Permit Applications No(s): _____

PROJECT AND LAND USE TABLES

If you are not sure of the eventual size of the project, provide the maximum estimates.

General Land Use Category		
	Existing (square footage area)	Proposed (square footage area)
Parking GSF	305	305
Residential GSF	3238	3238
Retail/Commercial	0	0
Office	0	0
Industrial-PDR	0	0
Medical	0	0
Visitor	0	0
CIE (Cultural, Institutional, Educational)	0	0
Useable Open Space		
Public Open Space		

Project Features		
	Existing Unit(s) (Count)	Proposed Unit(s) (Count)
Dwelling Units - Affordable	0	0
Hotel Rooms	0	0
Dwelling Units - Market Rate	2	2
Building Number	1	1
Stories Number	3	3
Parking Spaces		
Loading Spaces	0	0
Bicycle Spaces	0	0
Car Share Spaces	0	0
Public Art	0	0
Other (please specify below)	0	0

Land Use - Residential		
	Existing	Proposed
Studios Units	0	0
One Bedroom Units		
Two Bedroom Units	1	1
Three Bedroom (or +) Units	1	1
Group Housing - Rooms	0	0
Group Housing - Beds	0	0
SRO Units	0	0
Micro Units	0	0
Accessory Dwelling Units* <small>*For ADUs, individually list all ADUs and include unit type (e.g. studio, 1 bedroom, 2 bedroom, etc.) and the square footage area for each unit.</small>	0	0

VARIANCE FINDINGS

Pursuant to Planning Code Section 305(c), before approving a variance application, the Zoning Administrator needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding.

1. That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district;
1. The lot itself is only 24 ft wide. There is a neighborhood pattern for the building in the rear yard. Additionally, there is an existing exit stair of the existing building that encroaches into the rear yard.
2. That owing to such exceptional or extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;
2. Due to the existing size of the lot, being less than 25 ft.
3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district;
3. The extension has been built a long time ago without any records and the stairs are required for a second means of egress, this will be consistent to this block.
4. That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity;
- 5 The neighborhood pattern of the rear yard buildings is consistent with the Depth and the open court mid-yard requirement and is supported by the neighborhood pattern and will not affect anything else on the property exclusive of the required exit stairs at the back of the (E) building.
5. That the granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the Master Plan.
- 5 The neighborhood pattern of the rear yard buildings is consistent with the Depth and the open court mid-yard requirement and is supported by the neighborhood pattern and will not affect anything else on the property exclusive of the required exit stairs at the back of the (E) building.

PRIORITY GENERAL PLAN POLICIES FINDINGS

PLANNING CODE SECTION 101

(APPLICABLE TO ALL PROJECTS)

Proposition M was adopted by the voters on November 4, 1986. It requires that the City shall find that proposed alterations and demolitions are consistent with eight priority policies set forth in Section 101.1 of the Planning Code. These eight policies are listed below. Please state how the Project is consistent or inconsistent with each policy. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. If a given policy does not apply to your project, explain why it is not applicable.

Please respond to each policy; if it's not applicable explain why:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The property is a residential home and the neighborhood-serving retail is not affected by the work done.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The building is an existing building and the character of the house will be protected and preserved by using similar materials and finishes.

3. That the City's supply of affordable housing be preserved and enhanced;

The building is existing and the housing supply will not be affected.

4. That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking;

The commuter traffic will not be impeded and the muni transit service will not be affected.

Please respond to each policy; if it's not applicable explain why:

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The diverse economic base of the property will be maintained and preserved. This is a residential building and will not directly affect the industrial and service sectors.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The property will be upgraded and remodeled according to the rules of the city of San Francisco and will be ready and protected against in an earthquake .

7. That landmarks and historic buildings be preserved; and

The property is not a landmark but falls in a historical neighborhood. The building material and finishes will follow and preserve the historical characteristics of the neighborhood.

8. That our parks and open space and their access to sunlight and vistas be protected from development.

The existing building will not be changed and will not affect the sunlight and vistas.

APPLICANT'S AFFIDAVIT

Under penalty of perjury the following declarations are made:

- a) The undersigned is the owner or authorized agent of the owner of this property.
- b) The information presented is true and correct to the best of my knowledge.
- c) Other information or applications may be required.

Signature

Architect

Relationship to Project
(i.e. Owner, Architect, etc.)

415-512-7566

Phone

Suheil Shatara

Name (Printed)

suheil@shataraarch.com

Email

APPLICANT'S SITE VISIT CONSENT FORM

I hereby authorize City and County of San Francisco Planning staff to conduct a site visit of this property, making all portions of the interior and exterior accessible.

Signature

Date

Suheil Shatara

Name (Printed)

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____

EXHIBIT

K



VARIANCE FROM THE PLANNING CODE

INFORMATIONAL AND SUPPLEMENTAL APPLICATION PACKET

ATTENTION: A Project Application must be completed and/or attached prior to submitting this Supplemental Application. See the [Project Application](#) for instructions.

Pursuant to Planning Code Section 305, the Zoning Administrator shall hear and make determinations regarding applications for variances from the strict application of quantitative standards in the Planning Code. The first pages consist of instructions which should be read carefully before the application form is completed.

For questions, call 415.558.6377, email pic@sfgov.org, or visit the Planning Information Center (PIC) at 1660 Mission Street, First Floor, San Francisco, where planners are available to assist you.

Español: Si desea ayuda sobre cómo llenar esta solicitud en español, por favor llame al 415.575.9010. Tenga en cuenta que el Departamento de Planificación requerirá al menos un día hábil para responder.

中文: 如果您希望獲得使用中文填寫這份申請表的幫助, 請致電415.575.9010。請注意, 規劃部門需要至少一個工作日來回應。

Tagalog: Kung gusto mo ng tulong sa pagkumpleto ng application na ito sa Filipino, paki tawagan ang 415.575.9120. Paki tandaan na mangangailangan ang Planning Department ng hindi kukulangin sa isang araw na pantrabaho para makasagot.

WHAT IS A VARIANCE?

The Planning Code regulates the use of property, including the size, design, and siting of buildings that may be constructed on a piece of property. The Planning Code has standards for buildings that govern such features as rear yards, front setbacks, usable open space, height, and parking. A variance is a request for an exception to a Planning Code standard. The Zoning Administrator is the City official that interprets and maintains the Planning Code.

WHEN IS A VARIANCE NECESSARY?

There may be special circumstances that make it difficult for a project to meet all of the Planning Code requirements. In those instances, a project sponsor may request that the Zoning Administrator grant a Variance from the Code provisions. Under the City Charter (Section 4.105), the Zoning Administrator has the power to grant only those variances that are consistent with the general purpose and the intent of the Planning Code. The power to grant a variance shall be applied only when the plain and literal interpretation and enforcement of the Code would "result in practical difficulties, unnecessary hardships, or where the results would be inconsistent with the general purpose of the [Code]."

Planning Code Section 305(c) outlines the five criteria that must be met in order for the Zoning Administrator to grant a variance. The Section 305(c) criteria are as follows:

1. That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district;
2. That owing to such exceptional or extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;
3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district;
4. That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity; and
5. That the granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

HOW DOES THE PROCESS WORK?

Upon submittal of a complete application to the Planning Department, the Zoning Administrator will schedule a public hearing to consider whether to grant the Variance. Variance hearings typically occur on the last Wednesday of each month. Upon issuing the formal written decision either granting or denying the Variance in whole or in part, the Zoning Administrator shall forthwith transmit a copy the Variance decision letter to the applicant. The action of the Zoning Administrator shall be final and shall become effective 10 days after the date of his written decision except upon the filing of a valid appeal to the Board of Permit Appeals as provided in Section 308.2 of the Planning Code.

Fees

Please refer to the [Planning Department Fee Schedule](#) available at www.sfplanning.org or at the Planning Information Center (PIC) located at 1660 Mission Street, First Floor, San Francisco. For questions related to the Fee Schedule, please call the PIC at 415.558.6377.

Fees will be determined based on the estimated construction costs. Should the cost of staff time exceed the initial fee paid, an additional fee for time and materials may be billed upon completion of the hearing process or permit approval. Additional fees may also be collected for preparation and recordation of any documents with the San Francisco Assessor-Recorder's office and for monitoring compliance with any conditions of approval.

WHAT APPLICANTS SHOULD KNOW ABOUT THE PUBLIC HEARING PROCESS

A. The Zoning Administrator encourages applicants to meet with all community groups and parties interested in their application early in the entitlement process. In many cases, this is required as part of the Pre-application process. Department staff is available to assist in determining how to contact interested groups. Neighborhood organization lists are available on the Department's website. Notice of the hearing will be sent to groups in or near the neighborhood of the project. The applicant may be contacted by the Planning Department staff with requests for additional information or clarification. An applicant's cooperation will facilitate the timely review of the application.

B. The Zoning Administrator requests that applicants familiarize themselves with the procedure for public hearings, which are excerpted from the Planning Commission's Rules and Regulations below.

Hearings. A public hearing may be held on any matter before the Zoning Administrator at either a Regular (every 4th Wednesday of the month) or a Special Meeting. The procedure for such public hearings shall be as follows:

1. A description of the issue by Zoning Administrator along with the Planning Department's recommendation.
 2. A presentation of the proposal by the project sponsor for a period not to exceed 5 minutes.
 3. A presentation of opposition to the proposal, by organized opposition, for a period not to exceed 3 minutes.
 4. Public testimony from proponents of the proposal. An individual may speak for a period not to exceed 3 minutes.
 5. Public testimony from opponents of the proposal would be taken under conditions parallel to those imposed on proposal proponents, not to exceed 3 minutes.
 6. The project sponsor or applicant will be given a period, not to exceed 3 minutes, within which to clarify any questions raised in previous testimony.
 7. Discussion by the Zoning Administrator on the matter.
 8. The Zoning Administrator may impose time limits on appearances by members of the public and may otherwise exercise his or her discretion on procedures for the conduct of public hearings.
- C. **Opportunities for Appeals by Other Bodies:** Zoning Administrator actions on Variances are final unless appealed to the Board of Appeals within 10 days of the Zoning Administrator's written decision.



VARIANCE FROM THE PLANNING CODE

SUPPLEMENTAL APPLICATION

Property Information

Project Address: 945-947 Minnesota Street

Block/Lot(s): 4107/018

Variance Findings

Pursuant to Planning Code Section 305(c), before approving a variance application, the Zoning Administrator needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding.

1. That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district;

The lot itself is only 24 ft wide. There is a neighborhood pattern for the building in the rear yard. Additionally, there is an existing exit stair of the existing building that encroaches into the rear yard.

2. That owing to such exceptional or extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;

Due to the existing size of the lot, being less than 25 ft, the required requirements decreases the allowable area.

3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district;

The extension has been built a long time ago without any records and the stairs are required for a second means of egress, this will be consistent to this block.

4. That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity;

The neighborhood pattern of the rear yard buildings is consistent with the depth and the open court mid-yard requirement and is supported by the neighborhood pattern and will not affect anything else on the property exclusive of the required exit stairs at the back of the (E) building.

5. That the granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

Yes, the neighborhood pattern of the rear yard buildings is consistent with the depth and the open court mid-yard requirement and is supported by the neighborhood pattern and will not affect anything else on the property exclusive of the required exit stairs at the back of the (E) building.

APPLICANT'S AFFIDAVIT

Under penalty of perjury the following declarations are made:

- The undersigned is the owner or authorized agent of the owner of this property.
- The information presented is true and correct to the best of my knowledge.
- Other information or applications may be required.

Suheil Shatara

Digitally signed by Suheil Shatara
DN: cn=Suheil Shatara, o, ou=Shatara Architecture, Inc,
email=suheil@shataraarch.com, c=US
Date: 2019.03.22 13:19:20 -07'00'

Signature

Architect

415-512-7566

Relationship to Project

(i.e. Owner, Architect, etc.)

Phone

Suheil Shatara

Name (Printed)

suheil@shataraarch.com

Email

APPLICANT'S SITE VISIT CONSENT FORM

I herby authorize City and County of San Francisco Planning staff to conduct a site visit of this property, making all portions of the interior and exterior accessible.

Suheil Shatara

Digitally signed by Suheil Shatara
DN: cn=Suheil Shatara, o, ou=Shatara Architecture,
Inc, email=suheil@shataraarch.com, c=US
Date: 2019.03.22 13:19:52 -07'00'

Signature

Suheil Shatara

Name (Printed)

March 20th, 2019

Date

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____

EXHIBIT

L



VARIANCE DECISION

Date: December 2, 2020
Case No.: 2019-005728VAR
Project Address: 945-947 MINNESOTA STREET
Block/Lots: 4107 / 018
Zoning: RH-3 (RESIDENTIAL- HOUSE, THREE FAMILY)
Dogpatch Landmark District
Height/Bulk: 40-X Height and Bulk District
Applicant: Suheil Shatara
890 7th Street
Owner: Reed and Aleena Moulds
945-947 Minnesota Street
Staff Contact: Monica Giacomucci – 628-652-7414
Monica.Giacomucci@sfgov.org

Description of Variance – Rear Yard Variance Sought:

The proposal is to reconstruct an existing non-complying rear stair and to add a new rear deck and roof deck with a spiral stair connecting the two deck areas. The rear stair and spiral stair will extend into the required rear yard of the lot, which is developed with a three-story, two-family building located on the east side of Minnesota Street between 20th and 22nd streets.

Planning Code Section 134 requires properties in an RH-3 Zoning District adjacent to a building that faces onto a different street to maintain a rear yard equivalent to the rear yard at the other adjacent property. The property immediately north of the subject property has frontage on Tennessee Street, so the subject property must provide a rear yard equivalent to that of the property immediately south, to a depth of approximately 33 feet 4 inches. The proposed rear stair and spiral stair will result in a rear yard of approximately 17 feet at the subject property. Therefore, a rear yard variance is required.

Procedural Background:

1. The Project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 1 categorical exemption.
2. Planning Code Section 311 notification was mailed on July 15, 2020 and expired on August 14, 2020. A neighbor of the subject property filed a Request for Discretionary Review on August 14, 2020. The Planning Commission heard the request at a public hearing on October 22, 2020 and did not take Discretionary Review under DRA-726. The Zoning Administrator held a joint hearing with the Planning Commission on the same date for **Variance Application No. 2019-005728VAR**.
3. The subject property is located within the Dogpatch Landmark District designated under Article 10 of the

Planning Code. Proposed exterior alterations required approval of a Certificate of Appropriateness by the Historic Preservation Commission (HPC). The HPC approved the proposed project's Certificate of Appropriateness on **August 19, 2020** (Case No. 2019-005728COA and HPC Motion No. 0422).

Decision:

GRANTED, in general conformity with the plans on file with this application, shown as EXHIBIT A, to reconstruct a rear stair (approximately six feet deep by 11 feet 10 inches wide, and approximately twenty-two feet above grade) and install a new spiral stair that will connect the third-floor and roof decks, and both stairs will extend into the required rear yard of the three-story, two-family dwelling, subject to the following conditions:

1. The authorization and rights vested by virtue of this decision letter **shall be deemed void and cancelled** if (1) a Site or Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for Subdivision cases; or (3) neither a Site or Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.
2. Any future physical expansion, even in the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character and scale. If the Zoning Administrator determines that there would be a significant or extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new Variance application be sought and justified.
3. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls apply.
4. Minor modifications as determined by the Zoning Administrator may be permitted.
5. The owner of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
6. This Variance Decision and the recorded Notice of Special Restrictions shall be reproduced on the Index Sheet of the construction plans submitted with the Site or Building Permit Application for the Project, if applicable.

Findings:

Section 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

FINDING 1.

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended

use of the property that do not apply generally to other properties or uses in the same class of district.

Requirement Met.

- A. The subject property, developed circa 1890, has had a rear addition and stair in this location in the rear yard since at least 1905 (according to historic Sanborn Maps), prior to adoption of any regulations regarding required rear yard areas. The building directly north of the subject property is quite large and is occupied by the Friends of Potrero Hill Preschool. This size and nature of this adjacent property bisects the block, leaving no consistent mid-block open space.
- B. The existing building at the subject property has a front setback of more than 10 feet and is a contributor within the Dogpatch Landmark District designated under Article 10 of the Planning Code. Because development at the visible portions of buildings within the Dogpatch Landmark District is limited, the majority of buildings within the District have obstructions within their rear yards.
- C. The rear stairs are a required second means of egress pursuant to the Building Code. The existing stairs are heavily deteriorated and require full replacement to meet life safety requirements.

FINDING 2.

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

Requirement Met.

- A. The circumstances described above result in little to no opportunity for a Code-complying rear yard. The rear yard provides adequate open space for the building's two residential units, and the proposed stair will be reconstructed in roughly the same footprint, with little or no impact to the existing mid-block open space or adjacent properties. Likewise, the property directly north of the subject property contains a parking lot which will not be impacted by the proposal. Literal enforcement of Planning Code Section 134 in this situation would result in a practical difficulty toward improving the required second means of egress, useable open space, and rear yard access for the upper residential unit.

FINDING 3.

That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

Requirement Met.

- A. Granting this variance will allow the subject property to improve and increase access to open space for the two existing dwelling units by reconstructing a modest rear stair and building a new spiral stair connecting third-floor and roof decks. Reasonable and well-designed work at the rear of historic resource buildings designed to improve safety and open space, especially when the mid-block open space is so interrupted by a large institutional property, is a substantial property right possessed by

other properties in the same class of district.

FINDING 4.

That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

Requirement Met.

- A. Granting the variance will improve the livability of the subject property and will not be materially detrimental to the public welfare or materially injurious to the neighboring properties. The proposed rear stair will remain within the footprint of the existing building and will not be visible from the street, and the proposed third-floor spiral stair will only be visible due to the presence of a parking lot immediately north.
- B. The Planning Department determined the project to be consistent with the Residential Design Guidelines. Additionally, the Planning Commission heard a request for Discretionary Review for the proposal and determined the project to be consistent with applicable design guidelines.

FINDING 5.

The granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

Requirement Met.

- A. This development is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. Planning Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. The project meets all relevant policies, including conserving neighborhood character, and maintaining housing stock.
 - 1. Existing neighborhood retail uses will not be adversely affected by the proposed project.
 - 2. The proposed project will be in keeping with the existing housing and neighborhood character. The proposal will preserve the existing two dwelling units on the property.
 - 3. The proposed project will have no effect on the City's supply of affordable housing.
 - 4. The proposed project does not adversely affect neighborhood parking or public transit.
 - 5. The project will have no effect on the City's industrial and service sectors.
 - 6. The proposed project will have no effect on the City's preparedness to protect against injury and loss of life in an earthquake.
 - 7. The project will rehabilitate a contributing resource within the Dogpatch Landmark District. The overall proposal was approved with a Certificate of Appropriateness from the Historic Preservation

Commission on August 19, 2020.

8. The project would not affect any existing or planned public parks or open spaces.

The effective date of this decision shall be either the date of this decision letter if not appealed, or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Once any portion of the granted variance is used, all specifications and conditions of the variance authorization become immediately operative.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

APPEAL: Any aggrieved person may appeal this variance decision to the Board of Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 49 South Van Ness Ave, Suite 1475 (14th Floor), call 628-652-1150, or visit www.sfgov.org/bdappeal.

Very truly yours,

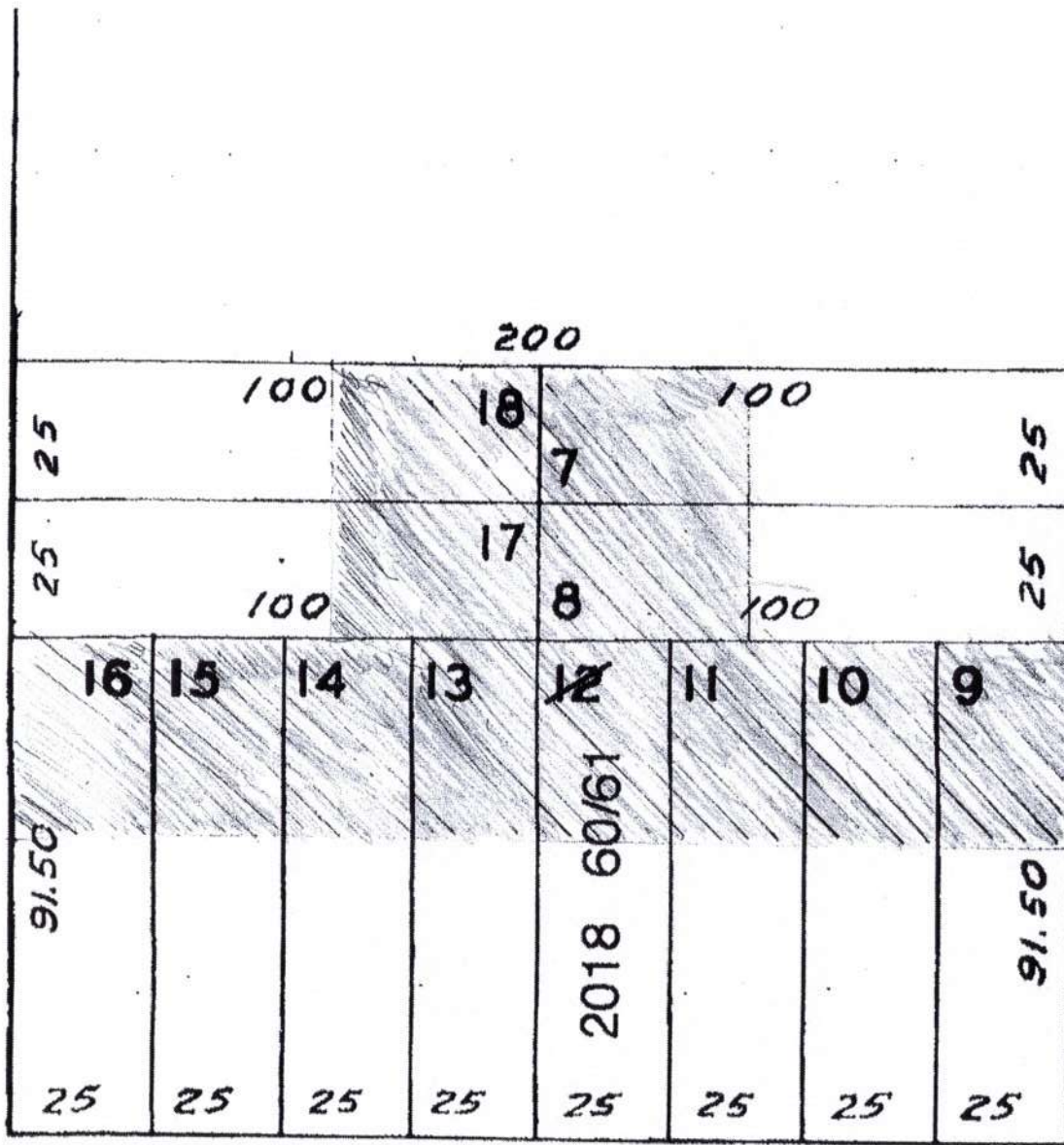


Corey A. Teague, AICP
Zoning Administrator

This is not a permit to commence any work or change occupancy. Permits from appropriate departments must be secured before work is started or occupancy is changed.

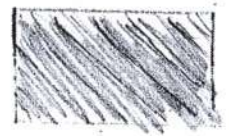
EXHIBIT

M



ATTACHMENT B.1

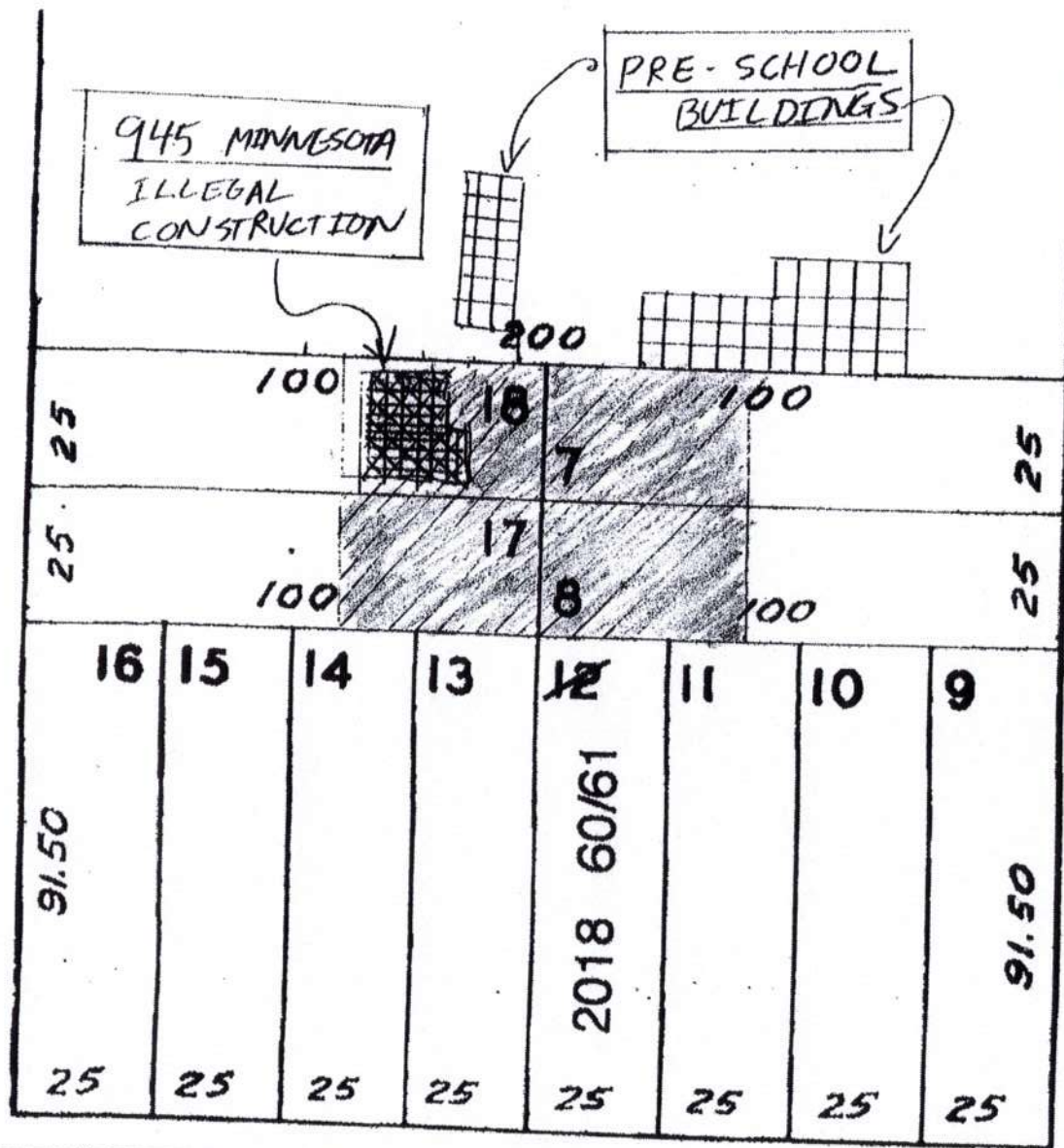
22ND



= MID-BLOCK OPEN SPACE BEFORE RE-ZONING

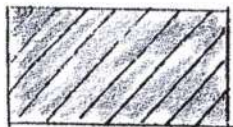
EXHIBIT

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ATTACHMENT B.2

22ND



= MID-BLOCK OPEN SPACE AFTER RE-ZONING

BRIEF SUBMITTED BY THE PERMIT HOLDER(S)

shatara**ARCHITECTURE** Inc.

August 11, 2022

San Francisco Board of Permit Appeals
49 S. Van Ness Avenue
San Francisco, CA 94110

Appeal No.: 22-050
Appellant: Spencer Gosch
Subject Property: 945 – 947 Minnesota Street
Determination: Variance
Case No. 2019-005728 VAR

Dear President Swig and Board Members,

I am the Architect for the building located at 945 Minnesota Street associated to the current and previous owners' rehabilitation of an existing three story, two-unit building.

In 2021 his project had gone through a full review by Preservation Planning Staff, Historic Preservation Commission for a C of A, a Planning Commission / Variance hearing and a Board of Appeals Hearing. The Zoning Administrator (Scott Sanchez) presented a 1937 aerial photograph that showed that the existing rear structure was there since 1937 or before. The current appeal is for the same structure with the same appellant.

PROPERTY AND PERMIT HISTORY

The original permit was an exploratory demo permit to look at conditions within the building, the second permit was for the remodel of the interior of all three levels. Third permit was a foundation replacement permit since the brick foundation was failing and the building had settled on the south side as well as the rear structure. An Administrative Certificate of Appropriateness permit for an exploratory demo was granted to expose the condition of any historic fabric underneath the front façade was also requested by Planning. This was done to define any historic fabric or characteristics of the original building to maintain the integrity to the Historic District. After the issuance of this permit the preservation planner (Monica Giacomucci) met me to review the site and to observe the conditions as well as to see historic fabric that can be retained. This was done prior to the final plans being approved by Planning Department and the Historic Preservation Commission.

The Variance and the associated building permits have been exhaustively reviewed by the Planning Department, along with two – thirty-day, Section 311 Notification processes to the neighborhood. The Preservation Commission unanimously supported the restoration of the building as proposed. Preservation Staff requested numerous revisions through the review process.

The permit currently appealed is the comprehensive permit that went through the entire process for the rehabilitation the property.

CONTEXT TO APPLIANT'S PROPERTY

The distance from the back wall of the structure to the appellant's rear wall is approximately 62-feet, from the appellant's outer deck to the rear of the subject property approximately 54-feet and to the proposed roof deck approximately 73-feet. The proposal by the project sponsor is to infill the area below the existing, rear structure. This should not impact the existing open space since that area is always in shadow. There is approximately 28-30 feet of rear yard with the encroachment of the required exit stair.

The project sponsor is seeking the variance necessary to make the existing, rear structure fully code compliant, needs restoration and the rear stairs rebuilt. Some of the existing elements such as windows, trim, and siding need to be repaired, replaced or relocated and new windows added. Some siding needs to be replaced due to building settlement and stylist consistency. The front stairs need to be rebuilt and the front façade needs to be completely reworked. Planning Staff and the preservation Commission have approved all these modifications.

PERMITS AND VARIANCE BACKGROUND

As far as the multiple permitting, the following permits were obtained so far, 2018-0409-5888; This was the original Remodel Permit for the 3-story two-unit, building for an interior remodel only.

2019-0110-0006; Revision to 2018-0409-5888: To replace masonry foundation with new concrete foundation which was recommended by the contractor. Existing foundation was substandard and was strongly recommended to be replaced.

2019-0226-3825; Repair existing siding at south elevation only: We were planning to repair the siding and found that the siding was in extremely poor condition. The siding was in extremely poor condition on the south elevation. There was also a mixture of clapboard siding as well as ship lap siding. The south side of the building is also where the building settled approximately three inches. The settlement caused the siding to pull away from the framing. Additionally, the waterproofing was compromised and needed repair or replacement. As a result of these conditions we spoke to planning staff to see how we can move forward through the process. The project sponsor decided move forward with the planning staff recommendations, to seek a Certificate of Appropriateness, a Variance and the Section 311 Notification. Planning staff recommended this to bring the building into full compliance through the appropriate, documented process.

2019-1003-3463; This permit was requested by planning staff for an exploratory demo in areas of the front façade. The permit required to do this was an “Administrative Certificate of Appropriate.” The planner met me at the site to evaluate the conditions below the current tile siding to evaluate appropriate material or trim & details.

The Current Owners are eager to complete the work and restore the building to the character that the neighborhood deserves. We respectfully request that the Board deny the appeal request.

Thank you for your consideration

Suheil Shatara
Architect

EXHIBIT

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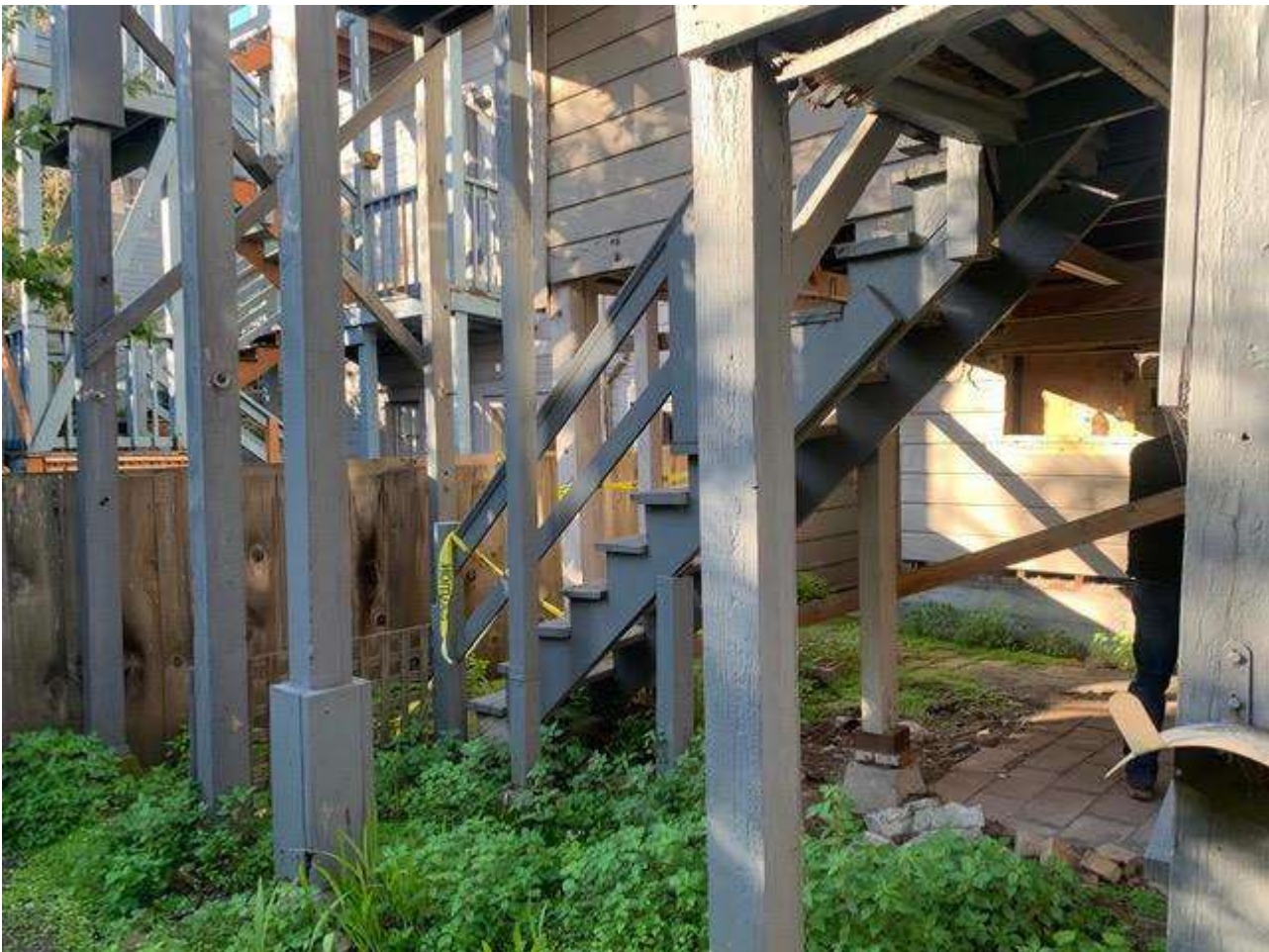






















Thank you,
Maria Rico