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

Appeal of JOHN WONG,

Appellant(s)

vs.

DEPARTMENT OF BUILDING INSPECTION, PLANNING DEPARTMENT APPROVAL Respondent

# NOTICE OF APPEAL

**NOTICE IS HEREBY GIVEN THAT** on September 21, 2023, 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 September 7, 2023 of a site permit (horizontal addition to the rear on three levels and a 12 foot pop-out) at 1334 12th Avenue.

### APPLICATION NO. 2021/05/06/9906

### FOR HEARING ON October 25, 2023

Address of Appellant(s):	Address of Other Parties:
John Wong, Appellant(s)	Eric Hall and Helene Favre, Permit Holder(s)
280 Drake Street	1334 12th Avenue
San Francisco, CA 94112	San Francisco, CA 94122

Appeal No. 23-043



# CITY & COUNTY OF SAN FRANCISCO BOARD OF APPEALS

# PRELIMINARY STATEMENT FOR APPEAL NO. 23-043

I / We, John Wong, hereby appeal the following departmental action: ISSUANCE of Site Permit No. 2021/05/06/9906

by the Department of Building Inspection which was issued or became effective on: September 7, 2023, to: Eric

Hall and Helene Favre, for the property located at: 1334 12th Avenue.

# **BRIEFING SCHEDULE:**

Appellant's Brief is due on or before: 4:30 p.m. on **October 5, 2023**, **(no later than three Thursdays prior to the hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy shall be emailed to: <u>boardofappeals@sfgov.org</u>, julie.rosenberg@sfgov.org, corey.teague@sfgov.org, tina.tam@sfgov.org, matthew.greene@sfgov.org and erichall00@yahoo.com.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **October 19, 2023**, (**no later than one Thursday prior to hearing date**). The brief may be up to 12 pages in length with unlimited exhibits. It shall be doubledspaced with a minimum 12-point font. An electronic copy shall be emailed to: <u>boardofappeals@sfgov.org</u>, <u>julie.rosenberg@sfgov.org</u>, <u>corey.teague@sfgov.org</u>, <u>tina.tam@sfgov.org</u>, <u>matthew.greene@sfgov.org</u> and john\_m\_wong@yahoo.com.

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

Hearing Date: Wednesday, October 25, 2023, 5:00 p.m., Room 416 San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place. The parties may also attend remotely via Zoom. Information for access to the hearing will be provided before the hearing date.

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

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to <u>boardofappeals@sfgov.org</u>. 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 <a href="http://www.sfgov.org/boa">www.sfgov.org/boa</a>. 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: <u>Via Email</u> Print Name: <u>John Wong, appellant</u> John Wong's Reasons for Appeal: The plans for 1334 12<sup>th</sup> Ave. have an incorrect footprint of over 6" of its adjacent neighbors and do not adhere to the Residential design guidelines of maintaining light and air for 1338 12<sup>th</sup> Ave. The plans display the North side's single dining room and bathroom windows equivalent with the back of 1334 as 19'7" from the back of 1338. The length of that setback is 28' and is mirrored on the South side. That's an error of 8'5" downplaying the severity of the expansion. I brought this up to Planning prior to filing the DR! The deck at 1330 displays larger because it's measured from the base of the stairs and not the end of the deck. The walkway on the North side appears to be 5' wide but is 2'6" at most. If this project is built on the property line, 1338's window would look out at a wall 40' long including the deck and lattice on the 2<sup>nd</sup> story with a 28' stagnant tunnel 3' wide, and additional 13'+ over 1338 2<sup>nd</sup> story and 23'+ over the bathroom and 3 other windows on the ground, dramatically blocking off light and restricting air flow. The only 2 kitchen windows on the second story facing North begin at 2'9" before the back of 1334 and extend 2'4" past. The plans mislocated these windows and would create a wall 26'9" past the existing building and 13'+ over 1338. The 4'x10' lightwell on 1334's 3<sup>rd</sup> story, a story above 1338. Because 1338 faces Northward, it receives abundant light from morning to dawn. The plans will block all that light except only when the sun is directly above the lightwell for an hour or two at noon during summer! The loss of that amount of natural light is massive and will force 1338's retired senior resident to turn on lights during the day to equate the light loss. The owners of 1334 have shown us only lies, deceit, neglect, dismissive, unavailability, uncompromising, uncooperative, withholding info., forged and omitted signatures and concerns, and disregarded during this entire process. Plans were never provided after repeated requests for 1 ½ years or meet until the 311 mailing. Mr. Hall insisted the plans were wrong. Stating the expansion would not go past 11'4" from the existing building. The architect only contacted me after filing the DR and did not email the revision from his laptop at the zoom meeting with David Winslow for a week! The owners at the pre-app meeting were not prepared, no direction, no sign in sheet, no plans, no architect, did not note concerns. The addition and a deck 3' away from our back bedroom there will be noise and smoke! I was only allowed 15 seconds to speak at the Commission

hearing.

Permit Details Report	
Report Date:	9/21/2023 12:29:33 PM

Application Number: Form Number: Address(es): Description: Cost:	202105069906 3 1766 / 038 / 0 1334 12TH AV HORIZONTAL ADDITION TO THE REAR ON 3 LEVELS AND A 12' POP-OUT \$573,000,00
Cost:	\$573,000.00
Occupancy Code:	R-3
Building Use:	27 - 1 FAMILY DWELLING

#### **Disposition / Stage:**

Action Date	Stage	Comments
5/6/2021	TRIAGE	
5/6/2021	FILING	
5/6/2021	FILED	
9/7/2023	APPROVED	
9/7/2023	ISSUED	

#### **Contact Details:**

#### **Contractor Details:**

License Number: OWNER Name: OWNER Company Name: OWNER Address: OWNER \* OWNER CA 00000-0000 Phone:

#### Addenda Details:

**Description:** SITE.

SITE.	Station	Rev#	Arrive		In Hold	Out Hold	Finish	Checked By	Review Result	Hold Description		
1	СРВ		5/6/21	5/6/21			5/10/21	CHEUNG DEREK		5/10: MISSING SIGNA APPLICATION & PLAN		
2	CP-ZOC		5/10/21	8/17/21	8/17/21	2/23/23	2/23/23	WOODS MARY		2/23/2023 APPROVAL received on 2/16/2023, Review Action (DRA-79) Commission. 12/30/22 a revised plans. 12/12/22 architect and owner rer : revisions to DBI per DR DRA-797 Action Memo a Secretary. 9/29/22 CPC taken; to approve revise 8/17/21 pending review, owner and architect re: materials & incomplete complete review; pendir		
3	CP-NP		4/6/22	4/6/22	4/8/22	10/20/22	10/20/22	WOODS MARY		4/6/22: Emailed the 311 4/8/22: Mailed the 311 1 expires on 5/19/22. (JL) Review (DR) applicatior 9/29/22: DR hearing; N Commission; pending D David Winslow.		
4	BLDG		2/27/23	4/27/23	4/27/23		8/8/23	HU QI (ANNE)		4/27/23: Issued comme		
5	DPW- BSM		4/28/23	5/1/23			5/1/23	DENNIS RASSENDYLL		5.1.23 Approved SITE Porequirement(s) for sign Encroachment (existing Conformity (final inspect applications and plans M Download sidewalk app http://www.sfpublicwor Your application will be necessary PUBLIC WOR completed or plan check sign off to the satellite or		
5	SFFD		5/26/23	6/22/23	6/23/23		8/1/23	RHAB BOUGHN		6/23/23: not approved; via email to owner/arch to ppc Assigned to Boug and AB005		

6	SFFD		8/1/23	8/1/23	8/4/23	RHAB BOUGHN	Issued Comments	8/4/23: received R2 plau approved; issued outstau via email; plans with ins
7	SFFD	1	8/7/23	8/7/23	8/7/23	RHAB BOUGHN	Approved	8/7/23: recheck; hand-e AB005 signed by officer entered; R2 approved; n
8	SFPUC		5/2/23	5/23/23	5/23/23	IMSON GRACE		05/23/2023 - Permit ha Capacity Charge. DBI wi attached to application.
9	PERMIT- CTR		1/19/23	1/19/23	1/19/23	PERMIT CENTER USER		02/16/2023: Project rec Team and transferred to review (CP-ZOC). Applic pic@sfgov.org for furthe - 02/07/2023: Project re Team and transferred to review (CP-ZOC). Applic pic@sfgov.org for furthe 01/19/2023: Project rec Team and transferred to review (CP-ZOC). Applic pic@sfgov.org for furthe
10	DPW- BSM	1	8/8/23	8/9/23	8/9/23	CHOY CLINTON	Approved- Stipulated	ADDENDA requirement Sidewalk Encroachment Inspection Conformity ( sidewalk applications an applied online. Downloa at http://www.sfpublicwor Your application will be necessary BSM permits : checker(s) could recomn satellite office via email. (clinton.choy@sfdpw.or;
11	SFPUC		8/10/23	8/11/23	8/11/23	IMSON GRACE	Approved	08/11/2023 - RESTAMF has been assessed a Cap- collect. See Invoice attac Route to PPC.
12	CP-ZOC		8/14/23	8/14/23	8/30/23	WOODS MARY	Approved	Approval by MWoods or residential child care fee with architect on 8/29/2
13	РРС		5/10/21	8/31/23	8/31/23	WAI CHUNG WONG	Administrative	8/31/23: To CPB; kw $8/restamp; kw 8/10/23: TiZOC) for restamp; kw 8/(then to SFPUC & CP-ZC8/7/23$ : To BLDG for rev on $8/1/23$ ; kw $8/1/23$ : S Boughn; kw $6/23/23$ : Tc BLDG & SFFD approval; kw $5/23/23$ : To hold bin approval; kw $5/2/23$ : To To DPW-BSM; kw $3/15/$ #6. TW $2/27/23$ : Route to screen for review time eligibility; HP $05/10/21$ :
14	СРВ		8/31/23	9/7/23	9/7/23	VICTORIO	Administrative	SITE PERMIT ISSUED
	1			-		UNKISIOPHER	·	

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

#### **Appointments:**

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

#### Inspections:

Activity Date Inspector Inspection Description Inspection Status

#### **Special Inspections:**

Addenda No. Completed Date Inspected By Inspection Code Description Remarks

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

Station Code Descriptions and Phone Numbers

Online Permit and Complaint Tracking home page.

#### **Technical Support for Online Services**

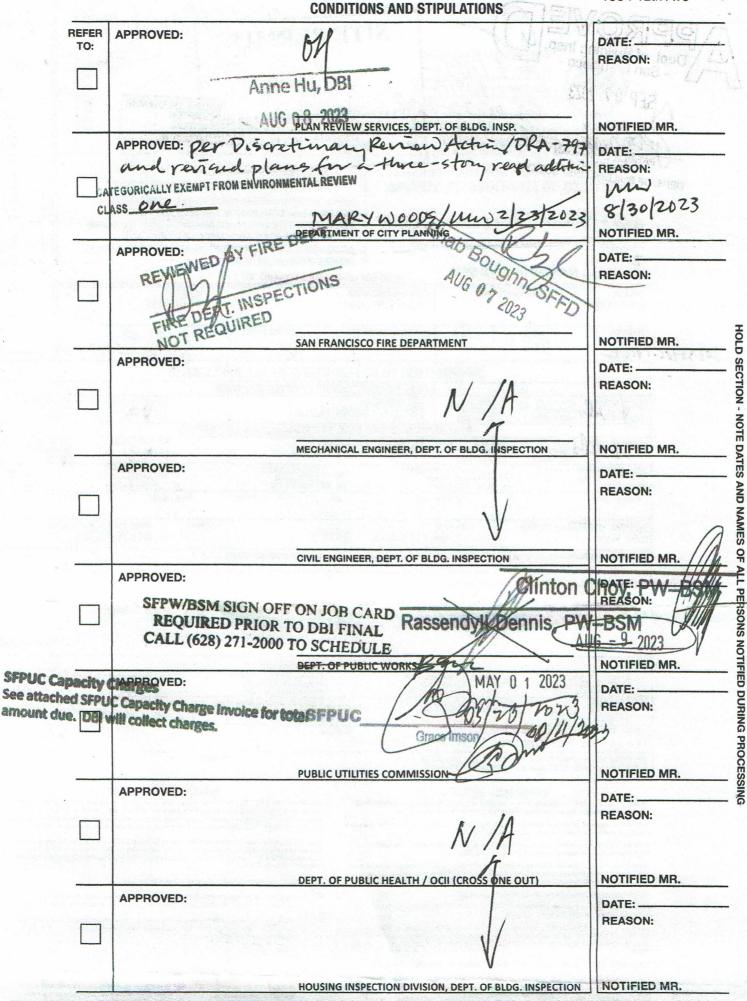
If you need help or have a question about this service, please visit our FAQ area.

Contact SFGov Accessibility Policies City and County of San Francisco © 2023

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() 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 complex with the worker's compensation laws this permit is issued, I will employ a contractor who complex with the account of the source of the sourc



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# APPELLANT'S BRIEF WAS REJECTED FOR BEING UNTIMELY

# **BRIEF SUBMITTED BY THE PERMIT HOLDER(S)**

## **Brief Eric Hall**

My name is Eric Hall. Helene Favre, my wife and I live with our two kids at 1334 12th Ave. We moved into our house in 2019. While there is 3 bedroom and 1 bath upstairs, we realized that the upstairs kids' rooms are shoebox size rooms with pitched ceiling such that it is impossible to have a dresser, desk and bed in each of the rooms. In addition, the bathroom is so small that only one person can be in the bathroom at the same time. After settling in, we came to conclusion that the bedrooms and bathroom were too small to raise a family and live comfortably. It was importantly to me that we have 3 bedrooms, two baths and an office upstairs. This house was built in 1901 and the footprint had not been extended. It might be the smallest house on the block. Tim Lorenz, my architect, provided plans that met my requirements upstairs as well as expansion on the main floor and garage level that follow all San Francisco planning code and architecture design principals. These are modest expansion where I have extended the main floor less than 45% max limit. In comparison, Nancy and John whose home starts on the property line in the front and has an extension to the 45% max limit. They have been able to enjoy full expansion of their house, which cast shadows across my garden and house, yet they continue to slow down my permit process by two years, hoping that I will give up.

While I have an opportunity, I would like to mention a point about Mark Benjamin, a friend of John Wong, who was an active participant at the Planning Commission DR. Mark has been verbally abusive, using profanity and offensive remarks in front my house and in front of my kids. This is unacceptable behavior hence I would like it to be documented. I wasn't the only one to receive derogatory comments, but also David Winslow, SF Planning Department, had a similar incident in the hallway during the first hearing at the Discretionary Review with the Planning Department. Please follow up with David Winslow for additional comment.

I worked with Mary Woods from the planning department to ensure that I was following all architecture and planning requirements of San Francisco. David Wislow was our negotiator, who setup meetings with my neighbors. During these meetings, I compromised and offered to add a very large light well (10ft by 4ft) on the second floor, given that their first floor sits higher than mine. In addition, I reduced my first floor by 2'-6" and the second floor by 1'-0" foot from the 45%

max limit. These are substantial accommodations that I thought my neighbors would appreciate as I made a genuine effort to remedy their concerns. John and Nancy didn't think that this was adequate and refused to agree. David Wislow thoughts are:

"The Planning Department's review confirms support of this proposal as it conforms to the Residential Design Guidelines and Planning Code. The project sponsor has modified the original design (see plans dated 9.1.22) by incorporating a lightwell immediately adjacent to the windows on the neighbor's side setback to provide adequate light; reducing the extension of first floor by 2'-6" and the second floor by 1'-0"; and incorporating a lattice privacy screen at the side of the second-floor deck. Because the second-floor deck is screened, has a 2' deep storage cabinet / counter, and extends only a few feet beyond the rear wall of the neighbor and is separated by a 3' setback on the DR requestors' side, the sight lines from the proposed deck do not impose undue privacy concerns and therefore do not warrant additional setback. Therefore, staff deems there are no exceptional and extraordinary circumstances and recommends not taking Discretionary Review and approving."

During the discretionary review, the planning commission UNANIMOUSLY agreed to take no action. I also worked with Mary Woods to ensure that my planning documents match exactly my Site plan documents. There are no variances or any changes from my planning documents that was approved at the DR and my Site plan documents. The reality is that John and Nancy have no interest that I make any addition to my house so there's no plan that would satisfy their requirement. Therefore, I recommend rejecting this appeal so that I can move forward on my addition and hopefully enjoy a comfortable home with my family.

Thank you.

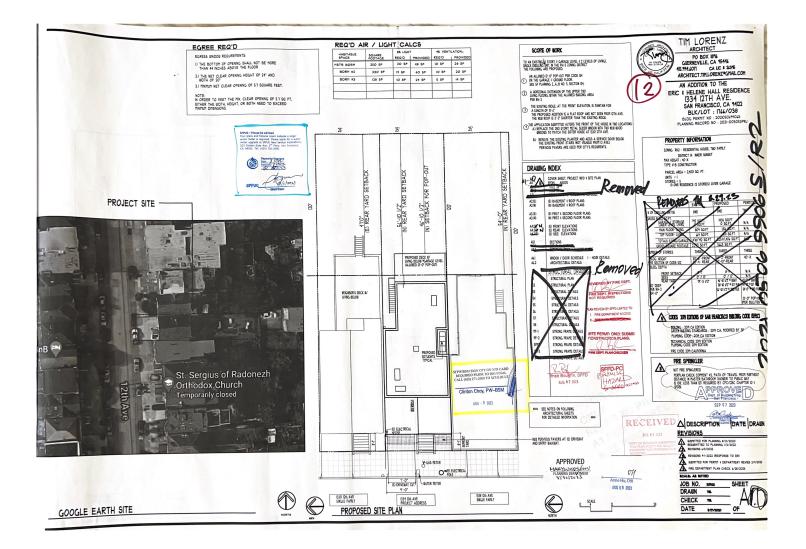
Eric Hall & Helene Favre

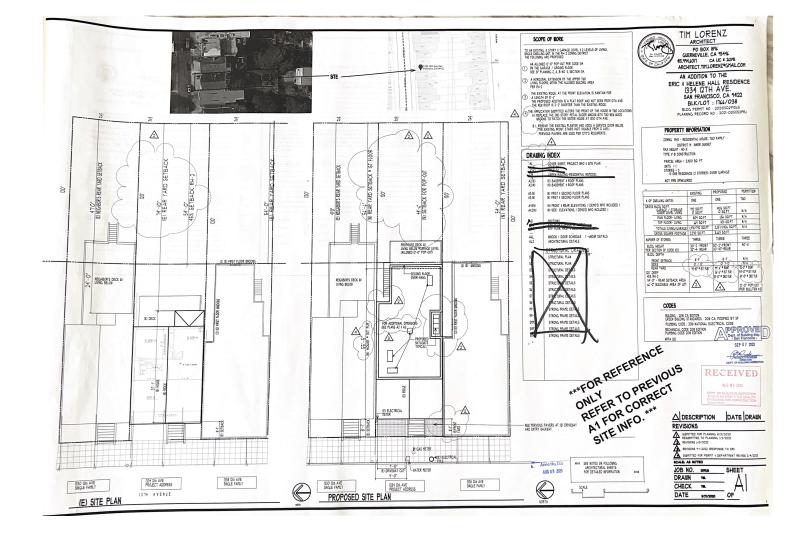
Shows view from my backyard facing my neighbor's addition on the back.

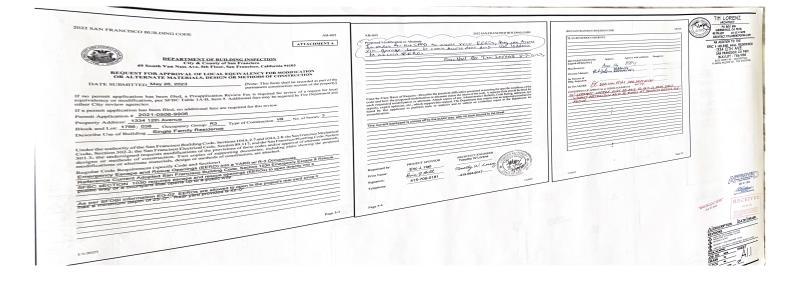


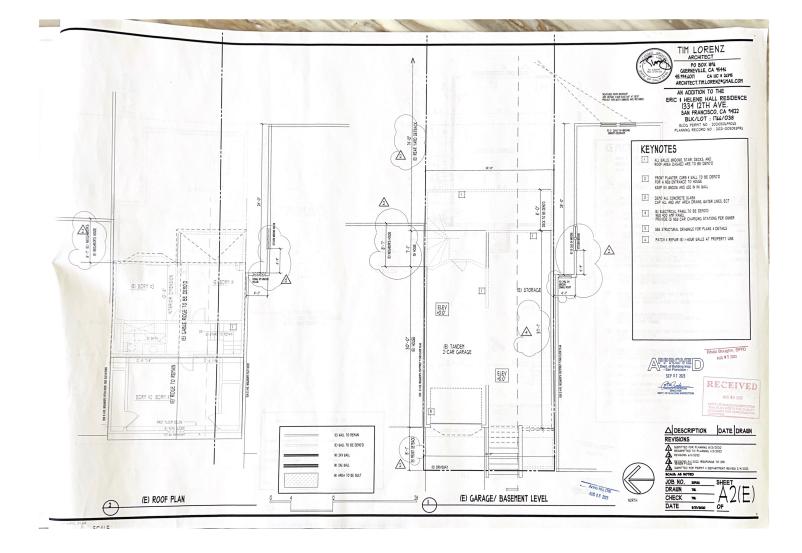
# In front of my house viewing South

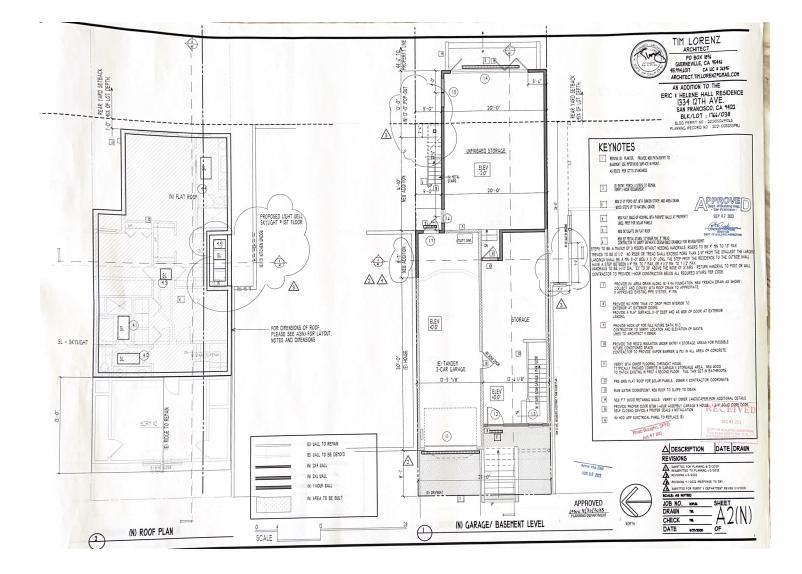


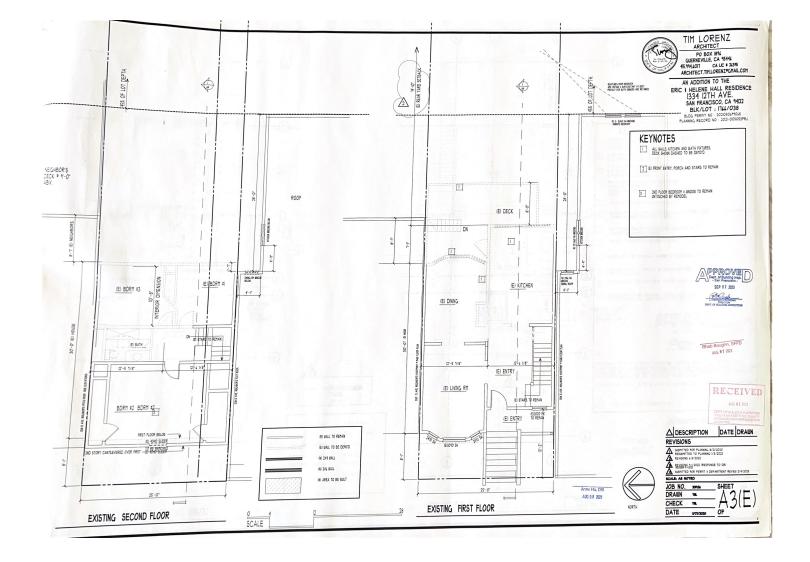


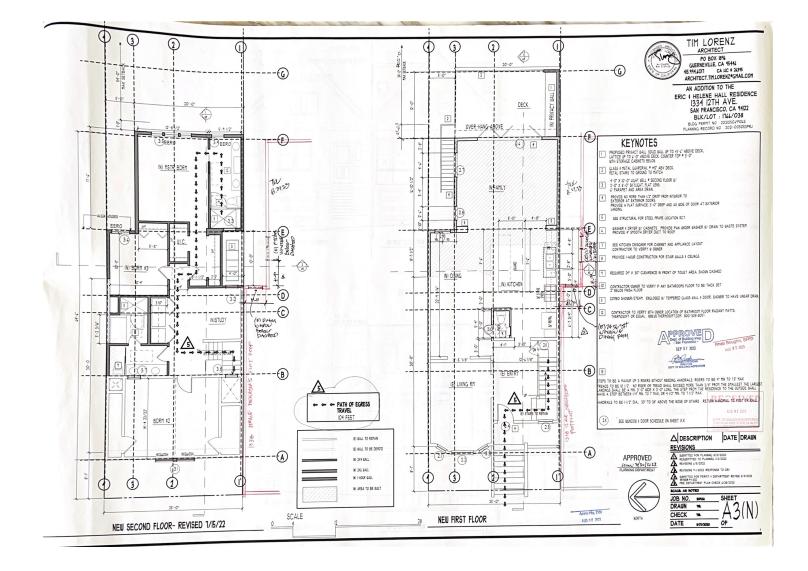


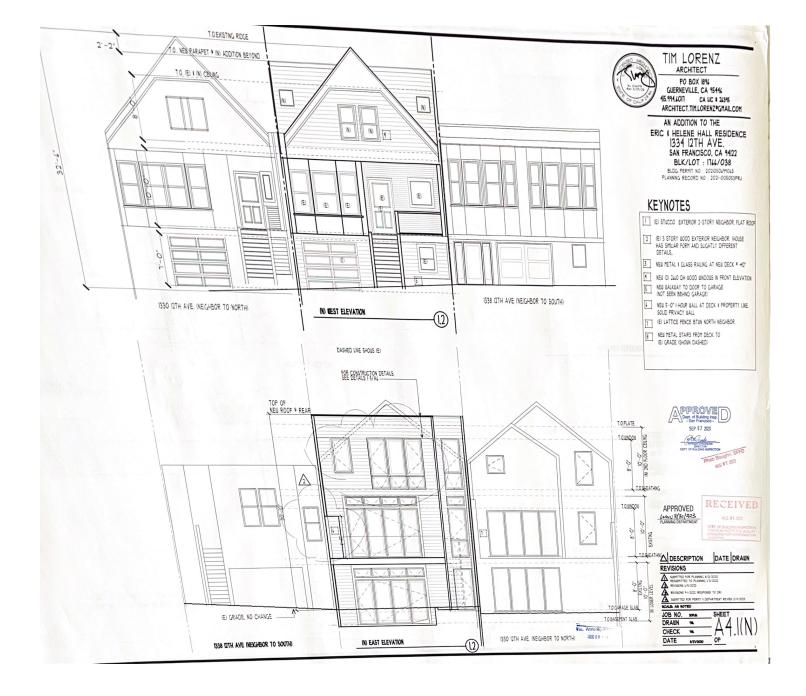


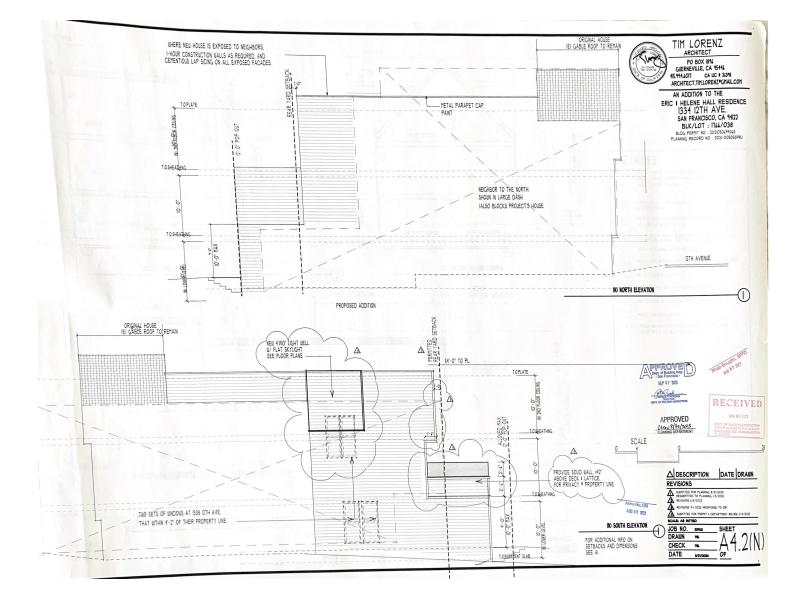


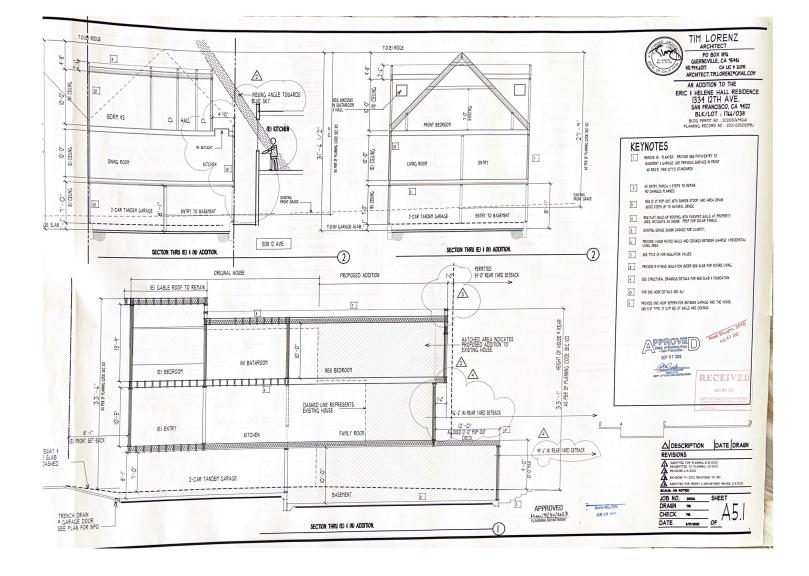


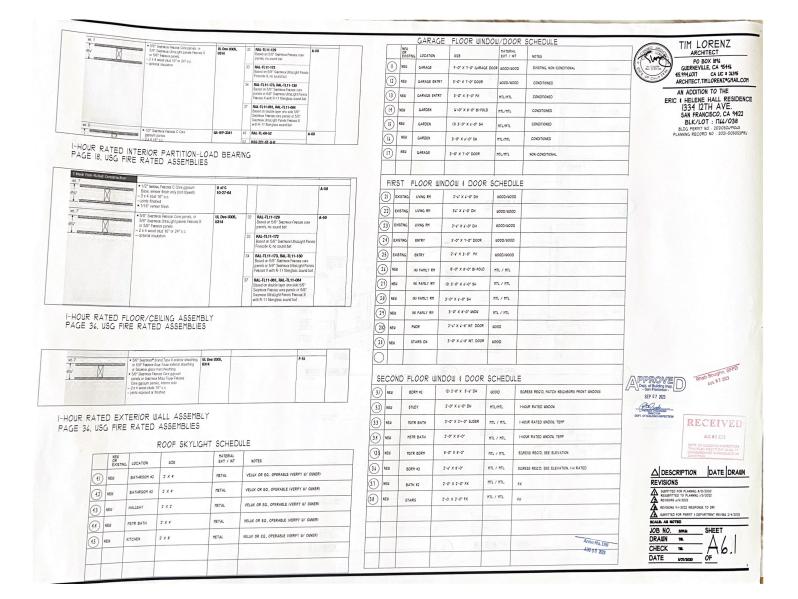


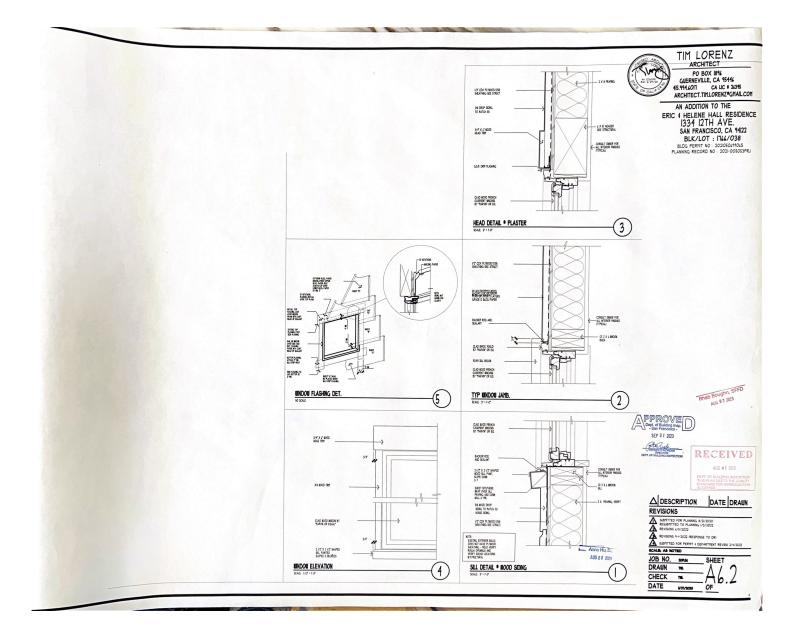












# **PUBLIC COMMENT**

# SENT VIA EMAIL. NO HARDCOPY TO FOLLOW

BoardofAppeals@sfgov.org

October 19, 2023

San Francisco Board of Appeals 49 South Van Ness Avenue Suite 1475 (14<sup>th</sup> Floor) San Francisco, CA 94103

# **REGARDING**

Appeal No.:23-043Appeal Title:Wong vs. DBI.PDASubject Property:1334 12th AvenuePermit Type:Site PermitPermit No:2021/05/06/9906

Dear Members of the Board:

My name is Eric Montgomery, and I am writing in support of the appeal noted above. As a matter of full disclosure, for over 20 years I have known both John Wong, the Appellant, and Nancy Wong, his sister and original requestor of the Discretionary Review that is the subject of this matter. I familiarized myself with many of the facts and related issues, as well as attended the September 29, 2022 Planning Commission hearing regarding the Discretionary Review. There are several areas that this Board should consider, including:

1. Incomplete review and presentation by the Staff Architect;

- 2. Unclear communication by the meeting secretary regarding the allotted time for each presentation that created confusion;
- The insensitive and unacceptable response by the Committee and it's Secretary Mr. John Wong request for accommodation due to his hearing disability; and,
- 4. The lack of diligence the Planning Committee demonstrated for the issues presented by the discretionary review requestor.

The staff architect began by noting the concerns of the Discretionary Review requestors that the "proposed project does not conform to the Residential Design Guidelines related to the reduction of light, air and privacy to their home." He further mentions that the department received a petition with 14 signatures supporting the DR and one letter in support of the project.

He explained that the "Planning Department review confirms support of this proposal as it conforms to the Residential Design Guidelines and Planning Code. The project sponsor has modified the original design...by incorporating a light well immediately adjacent to the windows on the neighbors side set back to provide adequate light, reducing the extension of the first floor by 2 feet 6 inches, and the second floor by one foot total, and incorporating a lattice privacy screen at the side of the second floor deck." Further, he explains that "because the second floor deck is screened, has a two foot deep storage cabinet counter, and extends only a few feet beyond the rear wall of the neighbor, and is separated by a three foot set back on the DR requestor's side, the sightlines from the proposed deck do not impose undue privacy concerns and therefore do not warrant additional set back."

First, the staff architect states that the modification of adding a lightwell "immediately adjacent" to Ms. Wong's windows plus the setback of Ms. Wong's house will "provide adequate light." The staff architect, and later Mr. Hall's architect, don't mention that the light well is only on the third floor of the proposed addition. It does not extend all the way to the ground, even though two of Ms. Wong's windows are on the ground floor. Additionally, the description of the windows being "immediately adjacent" is mistaken. In fact, the placement of Ms. Wong's windows is off by nearly 2 feet. Considering the erroneous window placement plus the fact that the light well doesn't extend all the way to the ground, it is clear that Ms. Wong will lose much more light than Mr. Hall's architect and the staff architect are willing to admit. Worse still is the fact that no one addressed Ms. Wong's ground floor windows which will be a full two stories below where the light well ends.

Secondly, the staff architect, and later the entire commission, spend the most time discussing how the project sponsor's modifications protect Ms. Wong's privacy. Ms. Wong has consistently communicated her preference

for light over any concerns about privacy. So much time was focused on the wrong issue.

Finally, there was no follow up about the petition of 14 neighbors in support of the DR by the staff architect during the hearing nor is it referenced at all in any of the Planning Department's DR analyses or deliverables. That is a considerable portion of the neighborhood who were concerned enough about the proposed project to ask that it go through the Design Review. These people should figure into the decision process in some way, but it does not appear to have happened.

Before Ms. Wong made her presentation Mr. Wong asked the meeting secretary that if there were 3 presenters how much time would each have. This can only be heard as mumbles on the meeting video, but it was clearly heard by me in the meeting. The secretary replied "five minutes," which can be heard on the video. Mr. Wong asked to confirm that the secretary meant 5 minutes each, but the secretary would not reply to him. When Mr. Wong's protested that his speaking time was cut short a Commission member broke in to explain what she heard. Her interpretation of what was said was not at all what I heard, which was emphatically 5 minutes each. Mr. Wong has a hearing disability. Having been to Planning Commission meetings before, he knew that the video feed into the meeting room included closed captioning. He would be able to use this to follow the meeting. However, about halfway through the meeting the video feed was turned off along with the closed captioning. At time 5:46:10 in the DR meeting video, Mr. Wong is attempting to explain that he cannot follow the meeting without the closed captioning and says "I'm hard of hearing," the meeting chair says "she is speaking as loud as I can. I'm speaking with a normal voice like I have throughout the hearing. I haven't gotten any complaints about how loud I speak. Anyway...."

As it is widely known, this situation is covered by the Americans with Disabilities Act. The best outcome for everyone is when the person with a disability requests accommodation beforehand, but in situations where a prior accommodation request is not feasible, the Act still requires the covered entity to make every effort to accommodate the request. They cannot claim that a request must be made ahead of time.

At this meeting no effort was made to accommodate Mr. Wong. The Board Chair should be more sensitive to the needs of those with a disability. The entire Board must understand that by not accommodating Mr. Wong, he was left at an unfair disadvantage to Mr. Hall. The Chair should have made some effort to remedy the problem, but none was.

During the DR meeting and in publicly available documents, the DR Requestor brought up a number of areas during the Design Review and Notification processes where Mr. Hall did not follow the required procedures, was unprepared for meetings, or submitted forms that contained inaccurate information. There is no record that any of these allegations were investigated by the Planning Department or that they were even documented. Many City and County Departments follow up to ensure compliance with their rules and regulations, the Planning Department should too.

In light of the issues explained above, I urge the Board to accept this appeal.

Sincerely,

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