

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, DECEMBER 13, 2023

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

THE PUBLIC MAY JOIN THE MEETING IN-PERSON, BY COMPUTER (ZOOM) OR TELEPHONE:

Access by Computer:

<https://us02web.zoom.us/j/87335775364>

Access by Telephone:

Call: 1-669-900-6833

Webinar ID: 873 3577 5364

(1) PUBLIC COMMENT

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. At the discretion of the Board President, public comment and remote public participation may be limited to two minutes per person. If it is demonstrated that public comment and remote public participation will cumulatively exceed 15 minutes, the President may continue Public Comment and/or remote public participation to another time during the meeting.

(2) COMMISSIONER COMMENTS & QUESTIONS

Discussion and Possible Action. On September 27, 2023, the Board heard Appeal No. 23-036 @ 472-474-476 Union Street and 15 Nobles Alley. The Board voted 5-0 to grant the appeal and issue the permit on the condition it be revised to require that the three units in which work was to be performed have their unit addresses listed on the permit. The Board further recommended that DBI inspect the three units, and, with the consent of the property owner, DBI inspect the remainder of the building. On October 4, 2023, DBI reported back to the Board, via email, that the inspection of the property had been completed as requested by the Board. On November 1, 2023 and November 15, 2023, Mr. Bruno appeared before the Board during public comment and stated that DBI did not inspect the remainder of the building. Mr. Bruno also submitted written public comment on this issue. At the request of the Board, DBI submitted a written response, dated December 4, 2023, to Mr. Bruno's allegations. This letter was summarized by Matthew Greene, Deputy Director of Inspection Services, at the December 6, 2023, hearing. Mr. Bruno also spoke about this matter at the December 6, 2023 hearing. Commissioner Trasviña requested that this matter be put on the December 13, 2023 agenda so that the commissioners could engage in a discussion about the issues. Subsequent to the hearing on December 6, 2023, President Swig, through the Executive Director, asked DBI to inspect the property prior to December 13, 2023. The Commissioners will discuss these matters and may ask Mr. Bruno and DBI to address questions and provide an update on DBI's inspection.

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(3) ADOPTION OF MINUTES

Discussion and possible adoption of the December 6, 2023 minutes.

(4) REHEARING REQUEST FOR APPEAL NO. 23-044

Subject property at 223 Anderson Street. Mary Jane Galviso, Appellant, is requesting a rehearing of Appeal No. 23-044, MARY JANE GALVISO vs. DEPT. OF BUILDING INSPECTION, PLANNING DEPT. APPROVAL, decided November 1, 2023. At that time, upon motion by Vice President Lopez, the Board voted 5-0 to deny the appeal and uphold the permit on the basis that it was properly issued. **Permit Holders:** David Coulombe and Elyzabeth Dehapiot. **Permit Description:** vertical addition to add new suite with bedroom, bath and closet; new connecting stair, new windows at rear, new window at existing front facade; resurface existing entry stair and replace guardrails; remove existing bathroom at existing primary suite and convert into a family room. **Permit No.:** 2022/1027/5336.

(5) APPEAL NO. 23-047

TOM METZ, Appellant(s)

vs.

ZONING ADMINISTRATOR, Respondent

51 Prosper Street.
Appealing the ISSUANCE on September 25, 2023, to Tom Metz, of a Reasonable Modification Decision (The proposal is to merge two dwelling units (Units 2 and 5) at the subject property by constructing an internal staircase connecting the units and removing the kitchen in Unit 5; the kitchen in Unit 5 would be converted to a bedroom; the Zoning Administrator allowed for the construction of an interior staircase connecting Units 2 & 5 but did not authorize the merger of the two units or the removal of the kitchen; the Reasonable Modification is valid only for the period that there is a qualifying disabled occupant).
CASE NO. 2022-011807VAR.
FOR HEARING TODAY.

(6) APPEAL NO. 23-049

<p>MISHA PALECEK, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p>	<p>566 Kansas Street.</p> <p>Appealing the ISSUANCE on September 26, 2023, to Misha Palecek, of a Variance Decision (Denial of a Rear Yard Variance) (The proposal is to legalize the 3rd floor solarium conversion within the buildable area of the lot as an expansion of the master bedroom suite, legalize the use of a 3rd floor unoccupied roof area as a deck with 5-foot side setbacks, and relocate and extend the spiral stairs located in the rear yard to access the proposed 3rd floor deck. The Planning Code requires the subject property to maintain a rear yard depth of approximately 45 feet. The existing noncomplying building has a rear yard that measures only 31 feet 8 inches. The proposed rear spiral stairs will encroach approximately 6 additional feet into the required rear yard. The Zoning Administrator determined that the project does not meet any of the five findings required by Planning Code Section 305(c) and denied the variance).</p> <p>CASE NO. 2021-005284VAR. FOR HEARING TODAY.</p>
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(7) APPEAL NO. 23-042

<p>ELENA ASTURIAS and EDUARDO PANIAGUA, Appellant(s)</p> <p>vs.</p> <p>PLANNING DEPARTMENT, Respondent</p>	<p>1228 Funston Avenue. Appealing the Cancellation on September 7, 2023, of a Building Permit (new dwelling unit on ground floor per RH-2 Zoning density; to comply with Complaint No. 2015-014724ENF; legalization of unpermitted interior remodeling and vertical addition at rear; restoration of front façade; see Permit Application No. 201402067948); the permit was canceled for: (1) failing to submit the requested or required revisions per the Planning Commission decision DRA-822 deadline, and (2) Other: same project under duplicate Permit No. 2019/0215/3076). PERMIT NO. 2021/01/13/2631. FOR HEARING TODAY. Note: On October 25, 2023, upon motion by President Swig, the Board voted 4-0-1 (Commissioner Trasviña recused) to continue this Item to December 13, 2023, so that the record could be supplemented with: (1) Discretionary Review Action DRA- 822, and (2) a brief from the Planning Department which includes answers to the following questions: Does the Housing Accountability Act apply to this case? If so, is the Planning Commission's imposition of the conditions consistent with the Housing Accountability Act and why?</p>
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ADJOURNMENT.

Note: The materials for each item on this agenda may include some or all of the following documents: Preliminary Statement of Appeal; Departmental determination being appealed; briefs submitted by Appellants, Permit Holders, Respondent Departments or Other Parties; submittals by members of the public; and correspondence. These items, and any materials related to an item on this agenda that are distributed to the Board members at the hearing, are available for public inspection at the Board's website <https://sf.gov/departments/board-appeals> and upon request by emailing the Board Office boardofappeals@sfgov.org. Please call 628-652-1150 if you have any questions concerning this agenda.

Date posted: **December 8, 2023**

MEMBERS OF THE BOARD OF APPEALS

RICK SWIG	PRESIDENT
JOSE LOPEZ	VICE PRESIDENT
ALEX LEMBERG	COMMISSIONER
JOHN TRASVIÑA	COMMISSIONER
J.R. EPPLER	COMMISSIONER

Members of the Board will attend the meeting in-person, and members of the public are invited to attend in-person, by computer, or by telephone as described above. To ensure full public participation in the Board’s adjudicatory hearings, the Board will not impose a time limit on the total amount of remote public participation for any agenda items at this meeting. Each member of the public participating remotely will be subject to the three-minute, or if applicable two-minute, time limit noted above.

PROCEDURE AT HEARINGS

Except when the Presiding Officer finds good cause to order the presentations otherwise, the order of presentation of an appeal shall be as follows: (a) the appellant shall speak first and shall be allowed seven minutes to present relevant testimony and evidence. Then the permit holder, representatives of the department, board, commission or person from whose order the appeal is taken, and/or other parties, shall be allowed seven minutes for presentation of relevant testimony and evidence. Three minutes for rebuttal shall be provided to all parties in this same order; (b) the Board may request a departmental response at its own discretion. For rehearing requests and jurisdiction requests, each party shall be allowed three minutes to present testimony and evidence, with no rebuttal.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

Those members of the public who intend to testify about a particular appeal and wish to have the Board give their testimony evidentiary weight for purposes of deciding the appeal are asked to take an oath. Please note that any member of the public may speak without being sworn-in pursuant to their rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code).

SPECIAL NOTES

The Board reserves the right not to start an item on the agenda after 10:00 p.m.

It is possible that the Board may experience technical challenges that interfere with the ability of members of the public to participate in the meeting remotely. If that happens, the Board will attempt to correct the problem but may continue with the hearing as long as the parties to an appeal are able to participate in the meeting, and members of the public attending in-person, as well as anyone who

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received a disability accommodation to offer remote public comment, are able to observe and offer public comment.

If the Board continues a matter to a specific date that is announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at (628) 652-1150 for scheduling or other information during regular business hours or visit our website at www.sfgov.org/boa.

The complete Rules of the Board are available for review on our website.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at boardofappeals@sfgov.org, no later than 4:30 p.m. one Thursday prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to boardofappeals@sfgov.org. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. Please note that names and addresses included in these submittals will become part of the public record. Submittals may be made anonymously.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled the day of hearing or are taken out of order to accommodate special needs. The Board urges all parties to be present at the hearing from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

If you need technical assistance or would like to receive instruction on how to access the meeting via Zoom, please email or call the Board Office: boardofappeals@sfgov.org or (628) 652-1150.

To obtain a disability-related modification or accommodation, including auxiliary aids or services to participate in the meeting, please contact the Board office at least 48 hours before the meeting at boardofappeals@sfgov.org or (628) 652-1150.

American sign language interpreters, translation services and/or sound enhancement will be available upon request by contacting Board staff at (628) 652-1150 at least 48 hours prior to the hearing.

Intérpretes de lenguaje de señas americano, servicio de traducción y/o mejoramiento del sonido estará disponible a petición contactando con personal de la Junta al (628) 652-1150 por lo menos 48 horas antes de la audiencia.

美国手语翻译, 翻译服务和/或声音增强将可在聆讯前48小时通过联系652-1150局人员要求.

Ang mga tagapagsalin sa lenggwaheng pasenyas, mga serbisyong pagsasalin at/o mga gamit upang pabutihin ang pakikinig ay maaaring hilingin sa Board Staff sa (628) 652-1150 sa hindi bababa na 48 oras bago mag hearing.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: by mail to Administrator, Sunshine Ordinance Task Force, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-5163; or by e-mail at sotf@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance may request a copy from the Sunshine Ordinance Task Force Administrator or by printing Chapter 67 of the San Francisco Administrative Code on the internet at www.sfgov.org/sunshine.

LOBBYING ACTIVITY/CAMPAIGN CONTRIBUTIONS

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 25 Van Ness Ave., Suite 220, San Francisco, CA 94102; telephone: (415) 252-3100; email ethics.commission@sfgov.org; web site www.sfgov.org/ethics.

Under Campaign and Governmental Conduct Code Section 1.127, no person or entity with a financial interest in a land use matter pending before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, Port Commission, or the Treasure Island Development Authority Board of Directors, may make a campaign contribution to a member of the Board of Supervisors, the Mayor, the City Attorney, or a candidate for any of those offices, from the date the land use matter commenced until 12 months after the board or commission has made a final decision or any appeal to another City agency from that decision has been resolved. For more information about this restriction, visit sfethics.org.

SUGGESTIONS TO IMPROVE EFFICIENCY

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The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Board staff, at boardofappeals@sfgov.org or (628) 652-1150. A customer satisfaction survey form is available at the meetings, the Board office, and on the Board's web site, www.sfgov.org/boa.

ONLINE VIDEO STREAMING OF MEETINGS

Online video streaming and audio and video file downloads of Board meetings are available at: https://sanfrancisco.granicus.com/ViewPublisher.php?view_id=6.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
49 South Van Ness Avenue, Suite 1475
San Francisco, California 94103

The Board's physical office is open to the public by appointment only. Please email boardofappeals@sfgov.org or call 628-652-1150 if you would like to meet with a staff member.