

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

DRAFT MEETING MINUTES – WEDNESDAY, DECEMBER 6, 2023

REGULAR MEETING (IN-PERSON AND REMOTE ACCESS VIA ZOOM)

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

PRESENT: President Rick Swig, Vice President Jose Lopez, Commissioner Alex Lemberg
Commissioner John Trasviña, and Commissioner J.R. Eppler.

Jen Huber, Deputy City Attorney, Office of the City Attorney (CAT); Tina Tam, Deputy Zoning Administrator, Planning Department (PD); Matthew Greene, Acting Deputy Director Inspection Services, Department of Building Inspection (DBI); Chris Buck, Urban Forester, San Francisco Public Works, Bureau of Urban Forestry (SFPW-BUF); Julie Rosenberg, Executive Director; Alec Longaway, Legal Assistant.

(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.

SPEAKERS: Marc Bruno stated that DBI had still not answered the questions asked by the Board at its September 27, 2023 hearing related to Mr. Bruno's appeal of a plumbing permit. He stated that the Board wanted to know if illegal work was being done at the property.

President Swig asked Deputy Director Greene to give a summary of the letter he submitted to the Board, dated December 4, 2023, that responded to Mr. Bruno's comments made at previous hearings.

Deputy Director Greene summarized his letter. He stated that Senior Inspector Farrow inspected the property and noted that work was being performed only in the three front units. He noted that Mr. Bruno disputed this statement. Deputy Director Greene stated that he thought it would be best to schedule a second inspection to ensure there was no confusion or miscommunication. He stated that the second inspection that was scheduled had to be canceled, but that he was happy to go out whenever Mr. Bruno was ready. Deputy Director Greene also discussed the six current NOVs issued to the property and the general process of code enforcement.

(2) **COMMISSIONER COMMENTS & QUESTIONS**

SPEAKERS: President Swig wished everyone a Happy Hanukkah and a Merry Christmas.

Commissioner Trasviña thanked President Swig for following up on the previous matter [brought up by Mr. Bruno during General Public Comment]. He expressed his hope that the Board could schedule a further discussion by scheduling the matter to be on the agenda next week, rather than in January.

PUBLIC COMMENT: Marc Bruno spoke about the letter DBI submitted to the Board. He stated that the permit revised by the Board should be a revision permit, not a reinstated permit. He further stated that each unit should have its own permit.

(3) **ADOPTION OF MINUTES**

Discussion and possible adoption of the November 15, 2023 minutes.

ACTION: Upon motion by Commissioner Eppler, the Board voted 5-0 to adopt the November 15, 2023, hearing minutes.

PUBLIC COMMENT: None.

(4) **JURISDICTION REQUEST NO. 23-4**

Subject property at 99 Saint Germain Avenue. Letter from Edward Yee, requestor, asking that the Board take jurisdiction over Alteration Permit No. 2022/08/04/9876, which was issued on October 5, 2023. The appeal period ended on October 20, 2023, and the Jurisdiction Request was filed at the Board office on November 6, 2023. **Permit Holder:** Lisa Gautier and Patrice Gautier. **Permit Description:** Install a new dumbwaiter elevator including all structural supports as needed; add structurally reinforced concrete retaining wall and infill concrete slab; replace stucco wall below stairs, waterproofing over mechanical room and tile replacement as needed; area drains; plans traveling with Permit No. 2022/0803/9878.

ACTION: Upon motion by Commissioner Trasviña, the Board voted 5-0 to deny the request on the grounds that there had been no testimony that the City took any action or failed to take action to deny any rights of the requestor and therefore the City did not intentionally or inadvertently cause the requestor to be late in filing an appeal.

SPEAKERS: Edward Yee, requestor; Emily Charley, attorney for permit holders; Tina Tam, PD; Matthew Greene, DBI.

PUBLIC COMMENT: None.

(5) APPEAL NO. 23-052

<p>ANTHONY DINTCHO and DEMETRIUS DINTCHO, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent</p>	<p>1208 Stanyan Street. Appealing the ISSUANCE on November 3, 2023, to Anthony Dintcho, of a Public Works Order (Denial of an application to remove one street tree from the subject property. The property owner applied to remove the tree because of interference with PG&E underground utility lines. The structure of the tree and its vigor are in fair condition). ORDER NO. 208818. FOR HEARING TODAY.</p>
---	--

ACTION: Upon motion by Commissioner Lemberg, the Board voted 4-0-1 (Commissioner Eppler absent) to grant the appeal and issue the order on the condition it be revised to allow for the removal of the subject tree, with the requirement that the appellants plant a 36-inch box replacement tree on the uphill side of the existing tree, species to be determined by BUF. This motion was made on the basis that the location of the existing tree is the only feasible site for the underground electrical vault which will provide power to the property and BUF supports this outcome.

SPEAKERS: None.

PUBLIC COMMENT: None.

(6) SPECIAL ITEM

Discussion and possible action. On October 17, 2023, the Board of Supervisors (“BOS”) discontinued remote public comment by members of the public, except as necessary for disability accommodations (See Section 1.3.3 of the BOS Rules of Order and BOS File Number 231020). The instructions from the Mayor’s Office are that all commissions shall also adopt the BOS’s new rule and not allow remote public comment except when necessary to accommodate a disability. The Mayor’s Office has further directed that all presenters from departments shall attend commission meetings in-person. The Board will consider whether to end remote public comment, except as necessary for a disability accommodation. The Board will also consider whether to require department representatives and parties to attend meetings in-person, and to end remote meeting participation for such persons, except as necessary for a disability accommodation.

ACTION: None.

SPEAKERS: President Swig, Vice President Lopez, Commissioner Trasviña, Commissioner Lemberg and Commissioner Eppler.

The commissioners discussed the pros and cons of remote participation at Board meetings.

Commissioner Trasviña noted that the Mayor’s Office directed that all presenters from departments attend commission meetings in-person. He believed that the Board should not take a position on departmental representatives’ attendance given that they are City employees subject to the Mayor’s direction. The other commissioners agreed with this position.

REGULAR MEETING, BOARD OF APPEALS, DECEMBER 6, 2023 - PAGE 4

President Swig noted that the consensus of the Board was to allow remote public comment and to strongly encourage the parties to attend hearings in-person. He asked the Executive Director to draft language reflecting this policy to be considered by the Board at a future meeting.

PUBLIC COMMENT: None.

ADJOURNMENT.

There being no further business, President Swig adjourned the meeting at 6:45 p.m.

The supporting documents for this meeting can be found at the following link:

<https://sf.gov/meeting/december-6-2023/board-appeals-hearing-december-6-2023>

A video of this meeting, can be found at the following link:

https://sanfrancisco.granicus.com/player/clip/45011?view_id=6&redirect=true&h=22781f63a125d46b21ce090f9815a208