

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, MARCH 10, 2021

5:00 P.M., REMOTE MEETING VIA ZOOM

THE PUBLIC MAY JOIN THE MEETING BY COMPUTER OR TELEPHONE:

Access by Computer: <https://us02web.zoom.us/j/85856441212>

Access by Telephone:

Dial: 1-669-900-6833

Webinar ID: 858 5644 1212

(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 may be limited to two minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) COMMISSIONER COMMENTS & QUESTIONS

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the March 3, 2021 minutes.

(4) SPECIAL ITEM:

Discussion and possible action regarding presentation by representatives from San Francisco Public Works, Bureau of Urban Forestry, on the fines imposed for illegal tree removal. The presentation will include the legal authority and amount for the fines, the process for imposing fines once Public Works is made aware of illegal tree removal, and the process for changing the fine amounts. Additionally, the Bureau of Urban Forestry will discuss other legal remedies available for illegal tree removal.

Note: On September 2, 2020, upon motion by Vice President Honda, the Board voted 5-0 to continue this matter to December 16, 2020, with the expectation that the Bureau of Urban Forestry report back on the following items addressed by the Commissioners: (1) the feasibility of instituting bonds as a means of holding contractors and developers accountable, (2) the proposed amendments to the Public Works Code that were shared with members of the Board of Supervisors and the status of these proposed amendments, (3) a review of the fine structure, in general, with the goal of increasing fine amounts and the bases for increasing these amounts, and (4) the legal limitations on imposing punitive fines. Prior to the December 16, 2020 meeting, the matter was rescheduled to January 6, 2021. On January 6, 2021, upon motion by President Lazarus, the Board voted 5-0 to continue this matter to March 10, 2021 to allow time for the preparation of a draft letter by the Executive Director, in collaboration with the Bureau of Urban Forestry, on the topic of additional deterrence for illegal tree cutting. The Board would review this draft letter and consider sending it to the Board of Supervisors.

(5) JURISDICTION REQUEST NO. JR-21-2

Subject property at 4840 Mission Street. Letter from Vivian Padua and Ivonne Vasquez, requestors, asking that the Board take jurisdiction over Site Permit No. 2019/03/19/5605, which was issued on June 10, 2020. The appeal period ended on June 25, 2020, and the jurisdiction request was filed at the Board office on February 22, 2021. **Permit Holder:** Bridge Housing Corporation. **Permit Description:** 100% affordable housing; erect four stories, one basement, type V-A, 137 residential units and clinic building.

(6) APPEAL NO. 20-087

<p>EDMUND LOUIE and MARY PARKS, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p>	<p>482 16th Avenue.</p> <p>Appealing the ISSUANCE on December 9, 2020, to Mark Sole, of a Variance Decision (the proposal is to legalize the construction of a rear deck and stairs; the demolition of the previously existing deck was approved by the Planning Dept. in May 2012, however, the deck was reconstructed to be larger than previously existed and the stairs were shifted from the middle of the lot to the northern property line; therefore both the deck and stairs require legalization; the subject property has a required rear yard of approximately 39 feet and the deck and stairs proposed for legalization are entirely located within the required rear yard; the Zoning Administrator granted the rear yard variance). CASE NO. 2019-005619VAR.</p> <p>FOR FURTHER CONSIDERATION</p> <p>Note: On January 27, 2021, upon motion by President Honda, the Board voted 3-1-1 (Commissioner Lazarus dissented and President Santacana absent) to continue the matter to February 10, 2021 so that: (1) the determination holder can correct the errors in the plans including the location of the appellants' bathroom windows (relative to the firewall and staircase), the location of the 45% rear yard lot line, and the height and measurements of the staircase, (2) the parties can discuss measures that will mitigate the impacts of the staircase and firewall if they remain in the current location, and (3) the determination holder can provide a statement explaining the cost and requirements for relocating the staircase. On February 10, 2021, upon motion by President Honda, the Board voted 5-0 to continue this Item to March 3, 2021, at the request of the parties. On March 3, 2021, upon motion by President Honda, the Board voted 4-0-1 (Vice President Santacana absent) to continue this Item to March 10, 2021 so that the parties can come to an agreement on the materials to be used for the proposed riser.</p>
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(7) APPEAL NO. 21-007

501 COLUMBUS LLC, Appellant(s) vs. PLANNING DEPT., Respondent	507 Columbus Avenue. Appealing the DISAPPROVAL on February 1, 2021, of a Building Permit (permit was for change of use from limited use restaurant to restaurant, no work; permit was cancelled by the Planning Department because the existing business on site is a Specialty Grocer (2015-012815MIS) and is not eligible for a change of use to Restaurant per PC Section 780.3 and Board of Supervisors action 200673/182-20). PERMIT NO. 2020/12/22/1551. FOR HEARING TODAY.
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ITEMS (8A) AND (8B) SHALL BE HEARD TOGETHER

(8A) REHEARING REQUEST FOR APPEAL NO. 20-072

<p>Subject property at 5024 & 5030 3rd Street. Lady Benjamin PD Cannon, Appellant, is requesting a rehearing of Appeal No. 20-072, LADY BENJAMIN PD CANNON vs. ZONING ADMINISTRATOR, decided February 10, 2021. At that time, upon motion by Commissioner Lazarus, the Board voted 5-0 to deny the appeal and uphold the Notice of Violation & Penalty Decision on the basis that the Zoning Administrator did not err or abuse his discretion and the determination was properly issued.</p> <p>Determination Holder: Charles Jadallah (Property Owner). Determination Description: Subject lot is improved with a building containing ground floor and basement commercial space and 4 dwelling units (5030 3rd St.) that fronts on 3rd Street, and a detached 3-car garage that fronts Revere Ave.; it also contains a one-story, detached, 700 sq. ft. structure (5024 3rd St) located at its interior corner; subject property is in violation of the Planning Code for noncompliance with section 171; including the establishment of an unpermitted internet service exchange within the basement and ground floor of 5030 3rd Street; and Section 317 for having an unauthorized dwelling unit within 5024 3rd Street. Complaint No.: 2018-016696ENF.</p>
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(8B) APPEAL NO. 20-072 TO BE CONSIDERED IF ITEM (8A) IS GRANTED

<p>LADY BENJAMIN PD CANNON, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p>	<p>5024 & 5030 3rd Street.</p> <p>Appealing the ISSUANCE on September 30, 2020, to Charles Jadallah, of a Notice of Violation & Penalty Decision (subject lot is improved with a building containing ground floor and basement commercial space and four dwelling units (5030 3rd St.) that fronts on 3rd Street, and a detached 3-car garage that fronts Revere Ave.; it also contains a one-story, detached, 700 sq. ft. structure (5024 3rd St) located at its interior corner; subject property is in violation of the Planning Code for noncompliance with section 171; including the establishment of an unpermitted internet service exchange within the basement and ground floor of 5030 3rd Street; and Section 317 for having an unauthorized dwelling unit within 5024 3rd Street).</p> <p>COMPLAINT NO. 2018-016696ENF.</p> <p>FOR HEARING TODAY.</p> <p>Note: See (8A), above, for the procedural posture of this Item.</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 (<http://www.sfgov.org/boa>) 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: **March 5, 2021**

MEMBERS OF THE BOARD OF APPEALS

DARRYL HONDA	PRESIDENT
EDUARDO SANTACANA	VICE PRESIDENT
ANN LAZARUS	COMMISSIONER
RICK SWIG	COMMISSIONER
TINA CHANG	COMMISSIONER

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 to not start an item on the agenda after 10:00 p.m.

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.

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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

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

Note: The physical office is closed to the public until further notice. If you need to contact the Board, please email boardofappeals@sfgov.org or call (628) 652-1150.