



Date Filed: April 26, 2021

**City & County of San Francisco  
BOARD OF APPEALS**

**JURISDICTION REQUEST No. 21-4**

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Date of request: **April 26, 2021.**

**Jane Flurry** hereby seeks a new appeal period for the following departmental action: **GRANTING of Variance No. 2017-012887VAR** by **Zoning Administrator**, issued to: **Golden Properties LLC**, for property at **265 Oak Street**, that was issued or became effective on **June 15, 2020**, and for which the appeal period ended at close of business on **June 25, 2020**.

Your **Jurisdiction Request** will be considered by the Board of Appeals on Wednesday, **May 19, 2021 at 5:00 p.m. and will be held via the Zoom video platform.**

Pursuant to Article V, § 10 of the Board Rules, the **RESPONSE** to the written request for jurisdiction must be submitted by the permit, variance, or determination holder(s) and/or department(s) no later than **10 days from the date of filing, on or before May 6, 2021**, and must not exceed 6 pages in length (double-spaced), with unlimited exhibits. An electronic copy shall be submitted to the Board office via email to: [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org) with additional copies emailed to the opposing parties the same day.

You or your representative **MUST** be present at the hearing. It is the general practice of the Board that only up to three minutes of testimony from the requestor(s), the determination holder(s), and the department(s) will be allowed. Your testimony should focus on the reason(s) you did not file on time, and why the Board should allow a late filing in your situation.

Based upon the evidence submitted and the testimony, the Board will make a decision to either grant or deny your Jurisdiction Request. Four votes are necessary to grant jurisdiction. If your request is denied, an appeal may not be filed, and the decision of the department(s) is final. If your request is granted, **a new five (5) day appeal period shall be created which ends on the following Monday**, and an appeal may be filed during this time.

Name: Jane Flurry

Address: 269 Oak Street, San Francisco, CA 94102

Phone: 4152552909

Email: [jane.flurry@gmail.com](mailto:jane.flurry@gmail.com)

**Via Email**

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Signature of Requestor or Agent

### Jurisdiction Request

I wish to ask for a new appeal period for the variance decision on case # 2017-012887VAR.

After my Request for Discretionary Review was denied on 2/27/2020, I was told by both the planning department & the board of appeals that an appeal could not be filed until a decision letter was issued by the Zoning Administrator; and furthermore that I would be notified when the Decision Later was issued & that I might expect it to take as long as months before that happened.

I have never received any notification of the issuance of a decision letter.

It was in the process of filing an appeal for a building permit (#201906183782) for the same property at 265 Oak Street, notice of which was posted on the back fence on 04/08/2021, that I discovered the decision letter had been issued on 06/15/2020. I do not know why I was not notified as I was told I would be. Had I been notified timely, I most certainly would have filed a timely appeal. Therefore I ask that the appeal period for the variance decision on case # 2017-012887VAR be reopened.

Jane Flurry, Appellant

269 Oak Street

(415) 255-2909

jane.flurry@gmail.com





# SAN FRANCISCO PLANNING DEPARTMENT

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## Variance Decision

*Date:* June 15, 2020  
*Case No.:* **2017-012887VAR**  
*Project Address:* **265 OAK STREET**  
*Zoning:* Hayes-Gough Neighborhood Commercial Transit District  
40-X Height and Bulk District  
*Block/Lots:* 0838/024  
*Applicant:* John Kevlin  
One Bush Street  
San Francisco, CA 94014  
[JKevlin@reubenlaw.com](mailto:JKevlin@reubenlaw.com)  
*Owner:* Golden Properties LLC  
1115 Bosworth Street  
San Francisco, CA 94131  
*Staff Contact:* Carolyn Fahey – 415-575-9139  
[Carolyn.Fahey@sfgov.org](mailto:Carolyn.Fahey@sfgov.org)

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

### DESCRIPTION OF VARIANCE – REAR YARD, OPEN SPACE, AND EXPOSURE VARIANCE SOUGHT:

The proposal is to construct a 4-story two-family home at the rear of a through-lot and tenant improvements and reconfiguration of the existing 5-unit building fronting Oak Street.

**Planning Code Section 134** requires properties in the Hayes-Gough NCT Zoning District to maintain a rear yard equivalent to 25 percent of the total lot depth at grade level and at each succeeding story of the building. The subject property, with a lot depth of approximately 120 feet from Oak Avenue, has a required rear yard of 30 feet (the minimum required). The proposed rear yard structure will extend to the rear property line. 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. The Zoning Administrator held a public hearing on **Variance Application No. 2017-012887VAR** on **April 25, 2019** for only the rear yard variance.
3. Planning Code Section 311 notification was mailed on July 16, 2019 and expired on August 15, 2019. A Discretionary Review request—2017-012887DRP—was filed on August 8, 2019.
4. On **February 27, 2020**, the Planning Commission and Zoning Administrator held a joint hearing to consider the Discretionary Review request and variances for rear yard, open space, and

exposure. The Planning Commission did not take Discretionary Review and approved the project.

## DECISION:

**GRANTED**, in general conformity with the plans on file with this application, shown as EXHIBIT A, to construct a four-story, two-unit building at the rear of a through lot that will extend into the required rear yard, will not provide sufficient open space, and will eliminate Code-complying exposure from at least one dwelling unit:

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 the issuance of a necessary Building Permit or approval of a Tentative Map or other City action is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.
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 1959, is a through lot with a lot depth of approximately 120 feet. As a through lot, it is typical in the neighborhood, and specifically this block. However, most other through lots on the block have a detached alley-facing building, and the subject property is one of the only the block to not have a building fronting Lily Street. This context means there is no mid-block open space on the subject block.
- B. The existing rear yard area is not currently used for open space for any of the existing 5 dwelling units on the lot.

**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 Code-complying structure consistent with the existing development pattern of the block. The remaining gap in the alleyway provides little benefit, and yields an underused lot currently used as surface parking. Literal enforcement of the Code in this situation would result in a practical difficulty toward a reasonable, well-designed residential project that is consistent with the double-frontage context of the area.

**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 add two dwelling units through a well-designed, reasonable project in a manner consistent with the through lot context and overall scale of the block. This represents 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 not be materially detrimental to the public welfare or materially injurious to the neighboring properties. The proposed interior courtyard will provide approximately 400 square feet of open space, a new deck will be added to the rear of the existing building adjacent to a lightwell, and the new building will provide a modest patio area at the top floor. The proposed building will have a depth of only just over 28 feet.
- B. The Planning Department determined the project to be consistent with the Residential Design Guidelines. The Planning Department received both opposition to and support for the project. While a request for Discretionary Review was filed, the Planning Commission did not take Discretionary Review and approved the project.

**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 is consistent with height and massing, and has provided a setback on the fourth story as well as a stoop on the alley-facing façade to maintain consistency with existing massing, height, and façade patterns.
  - 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. The proposal removes one existing parking space and adds 2 Class 1 bike parking spaces.
  - 5. The project will have no effect on the City's industrial and service sectors. The project is residential use.
  - 6. The proposed project will have no effect on the City's preparedness to protect against injury and loss of life in an earthquake. The proposed detached building will meet current seismic building standards.
  - 7. The project will have no effect on the City's landmarks or historic buildings.

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.

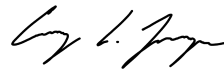
Once any portion of the granted variance is used, all specifications and conditions of the variance authorization become immediately operative.

**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 1650 Mission Street, 3<sup>rd</sup> Floor (Room 304) or call 575-6880.

Very truly yours,



Corey A. Teague, AICP  
Zoning Administrator

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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.



# NOTICE OF PERMIT ISSUANCE

## NOTICE IS HEREBY GIVEN

APPLICATION NUMBER 201906183782 S FILED ON 6/18/2019  
HAS BEEN ISSUED TO GOLDEN PROPERTIES LLC ADDRESS 2170 SUTTER ST. S.F. CA 94115  
TELEPHONE NUMBER 415-533-7455 PERMIT NUMBER 20210331-1350L DATE OF ISSUANCE 4/8/21

Any person who deems their interest or property, or the public interest, will be negatively affected by work performed under this permit MAY FILE AN APPEAL in person or through a representative with THE BOARD OF APPEALS at 49 South Van Ness Avenue, 14th Floor Suite 1475 WITHIN 15 DAYS from date of permit issuance. A \$175 fee is required at the time an appeal is filed. For more information, call (628) 652-1150 or visit [www.sfgov.org/boa](http://www.sfgov.org/boa).

Building and demolition permits that are issued to Conditional Use (CU) authorization by the Planning Commission may not be appealed to the Board of Appeals (S.F. Charter Section 4.106(b).) Appeals of the underlying Conditional Use authorization may be made to the Board of Supervisors but the building or demolition permit may not be appealed to any City government body.

This notice is posted in accordance with Section 2, Part II, Chapter 1, Article III (Building Code Section 303 (f)); Sections 5 and 6, part III, Chapter 1, Article I of the San Francisco municipal code and with reference to Section 39 of the Charter of the City and County of San Francisco. (See San Francisco Building Code Section 106A.4.6)

For information about the issuance of this permit, visit DBI's Central Permit Bureau at 49 South Van Ness Avenue, 2nd Floor, Suite 200 or call (628) 652-3240.

CENTRAL PERMIT BUREAU  
49 South Van Ness Ave, Suite 400  
San Francisco, CA 94103

CITY AND COUNTY OF SAN FRANCISCO  
DEPARTMENT OF BUILDING INSPECTION  
(415) 533-3200

Receipt No: 20210331-1350L  
Application/Permit No: 201906183782

PERMIT IS GRANTED TO  
☒ ERECT ☐ ALTER BUILDING ☐ ERECT SIGN ☐ DEMOLISH BUILDING ☐ GRADUE  
☐ LOWER CURB ☐ OCCUPY STREET SPACE ☐ EXCAVATE STREET OR SIDEWALK ☐ POST NOTICE  
☒ HOUSE NUMBER CERTIFICATE ☐ REPAIR OR CONSTRUCT SIDEWALK

SUPPLEMENTAL FEE PAID:  
☐ FINAL PLAN CHECK ☐ EXPEDITER FEE ☐ PENALTY ☐  
☐ STRUCTURAL LTR ☒ DCP FEE ☐

OWNER:  
GOLDEN PROPERTIES LLC (415)533-7455

LOCATION OF JOB:  
STREET ADDRESS: 168 LILY ST 0838/024  
170 LILY ST 0838/024

METER AND BOARD:  
EAST SIDE OF OAK  
138 FEET EAST FROM OCTAVIA

FRONTAGE FT: 4 5 R-3  
BUILDING USE: FAMILY DWELLING ESTIMATED COST \$ 550,000.00  
SCHEDULE NO. 116 ST SPACE LINEAR FT 6 FT CURB SECT TO BE LOWERED

WORK MUST COMMENCE ON BUILDING WITHIN TIME PER CODE, UNLESS EXTENSION AUTHORIZED PRIOR TO EXPIRATION. IF UNDER ENFORCEMENT ORDERS, SPECIAL TIME PERIODS SPECIFIED IN NOTICE OF VIOLATION OR ANTI-ENTRY ORDER WILL APPLY.  
TIME FOR COMPLETION OF WORK UNDER THIS BUILDING PERMIT EXPIRES 1080 DAYS AFTER DATE OF ISSUANCE. IF UNDER ENFORCEMENT ORDERS, SPECIAL TIME PERIODS SPECIFIED IN NOTICE OF VIOLATION OR ANTI-ENTRY ORDER WILL APPLY.  
NOTE: STREET SPACE PERMIT EXPIRES ON COMPLETION OF WORK OR WHEN REVOKED BY DIRECTION OF PUBLIC WORKS. SEE BACK OF FORM FOR OTHER TIME LIMITS.

Golden Properties LLC PERMIT 20210331-1350L

FEE PAYOR:  
2170 Sutter Street  
San Francisco, CA 94115  
APPROVAL:  
CENTRAL PERMIT BUREAU  
BUREAU CHIEF: DCHEUNG

SEPARATE PERMITS MUST BE OBTAINED FOR ELECTRICAL, PLUMBING OR OTHER RELATED WORK.  
2025-18 (Rev. 10/90)

THIS PERMIT IS GRANTED IN ACCORDANCE WITH PROVISIONS OF THE CHARTER AND ORDINANCES OF THE CITY AND COUNTY OF SAN FRANCISCO AND/OR THE CURRENT STANDARD SPECIFICATIONS OF THE DEPARTMENT OF BUILDING INSPECTION

\* ADDITIONAL INFORMATION REGARDING SPECIFIC PERMITS IS GIVEN ON THE BACK OF THIS FORM

DBI FIC PAID AT FILING \$1,057.89

ADJUSTED FOR REFUND

|                           |           |
|---------------------------|-----------|
| SITE PERMIT FIC SURCHARGE | 13.95     |
| POSTING                   | 13.95     |
| HOUSE #                   | 375.00    |
| FIRE BACK PLANCHHECK      | 10,000.00 |
| PUC WY CAPACITY           | 3,812.00  |
| PUC WATER CAP             | 25.00     |
| RECORDS RETENTION         | 7,511.78  |
| SCHOOL IMPACT FEE         |           |

SURCHARGE 0.00  
BOA SURCHARGE 37.00  
SUBTOTAL OF FEES WITH APPLICABLE SURCHARGES \$23,236.22

STRONG MOTION

SUBTOTAL OTHER FEES 154.00  
TOTAL \$ 23,390.22

### LAST DAY FOR FILING NOTICE OF APPEAL

(15 CALENDAR DAYS FROM THE PERMIT ISSUANCE DATE)

4/23, 20 21

OK by  
WZ  
4/8/21

DO NOT REMOVE UNDER  
PENALTY OF FINE AND/OR  
IMPRISONMENT SFMC  
PART III, ARTICLE 1, SECTION 7.





THE DETERMINATION HOLDER(S) DID NOT SUBMIT A BRIEF