

## ADMINISTRATIVE BULLETIN

### NO. AB-042

- DATE** : September 18, 2002 [Supersedes Administrative Bulletin AB-042 originally issued 05/19/89, revised 08/10/90; updated 01/01/0811 for code references]
- SUBJECT** : Plan Review; Permit Process
- TITLE** : **Board of Examiners: Request for Variance, New Materials, or Alternate Methods of Construction**
- PURPOSE** : To establish policies and procedures for hearings before the Board of Examiners to request a variance from a building code requirement, or approval for the use of new or alternate materials, methods or types of construction.
- REFERENCE** : 200710 San Francisco Building Code  
- Section 105A.1, Board of Examiners  
- Section 110A, Table 1A-K Penalties, Hearings, Code Enforcement Assessments
- DISCUSSION** : An applicant for a building permit may find that a specific new construction material, method of construction or type of construction cannot be approved by the Department of Building Inspection (DBI) because it does not comply with the specific requirements of the code. An applicant may find that it is difficult to achieve full compliance with the requirements of the building codes without experiencing practical difficulties. Under those circumstances the applicant may appeal to the Board of Examiners for approval of a variance or a new or alternate material, method or type of construction.

The Board of Examiners, after reviewing submitted exhibits and data with respect to a building permit application, is empowered to determine whether the use of new or unusual products or construction methods complies with the standards of safety set by the various codes. Likewise, the Board of Examiners may determine whether variances from the requirements of the codes can be accepted in instances where compliance would result in a practical difficulty or unreasonable hardship. A determination of acceptance may include conditions which must be satisfied. The Board of Examiners may not approve a request which would result in a condition less safe than otherwise required by the codes.

### **Review and Appeals with DBI Staff**

Before an appeal of a matter may be made to the Board of Examiners, the permit applicant must request review of a staff disapproval of a proposed condition of a building permit application to the next level of DBI management, up to and including the Director (see attached Diagram AB-042.) The San Francisco Fire Department must be consulted when a matter is within their jurisdiction. Any Fire Department disapproval may be appealed in accordance with Fire Department procedures. DBI and Fire Department review at each step shall be completed within 10 working days of the request by the appellant or the request shall be deemed disapproved and may advance to the next administrative review level.

- Where permit applicants do not agree with staff regarding an interpretation of the codes, or where applicants are denied approval to use a new material, method or type of construction, the disagreement or denial may be appealed to the plan reviewer's Team Leader or to the Senior Inspector supervising the field inspector.
- If unable to reach an agreement with the Team Leader or Senior Inspector, the permit applicant may appeal the disagreement or denial to the Division Supervisor, Chief or manger ~~or Chief Inspector~~ for resolution.
- If unable to reach an agreement with the Division's Supervisor, ~~or Chief~~ or manager, the issue may be taken up with the Deputy ~~Manager~~ Director of Permit Services or the ~~Manager~~ Deputy director of Inspection Services for resolution.
- The ~~Manager~~ Deputy Director may choose to meet with the Director of the Department of Building Inspection before issuing a final administrative determination. If the permit applicant does not accept the Director's conclusion, the applicant may then appeal to the Board of Examiners if the issue is within that Board's jurisdiction.

### **Request for Board of Examiners Review**

Requests for Board of Examiners review must be submitted in writing (see attached Form AB-042.)

- Submit 10 completed copies of Form AB-042 along with all other relevant information such as architectural plans, engineering reports, laboratory test data, and photos to:

Secretary, Board of Examiners  
 Department of Building Inspection  
 1660 Mission Street  
 San Francisco, CA 94103

The Board of Examiners will not review requests which do not, in the opinion of the Secretary of the Board of Examiners, include all necessary data, test results, and related materials.

- Enclose a check for the filing fee made payable to the Department of Building Inspection in the amount listed in Table 1A-K of the San Francisco Building Code.

### **Meeting Date and Application Deadline**

The Board of Examiners meets to consider appeals ~~on the second Tuesday of each month or~~ as scheduled by the Secretary of the Board of Examiners. ~~All r~~Requests for appeals to the Board of Examiners ~~must be submitted~~ should allow at least three weeks before ~~the a~~ a hearing date will be held.

### **Agenda Posting and Meeting Notification**

DBI will send the appellant an agenda and a notification of a scheduled hearing at least ten days before the meeting. DBI will post the agenda at the location of the meeting and at the main branch of the San Francisco Public Library at least 72 hours before the hearing. All meetings are open to the public.

Unless otherwise noticed, the public meetings are held in the evenings at:

Department of Building Inspection  
1660 Mission Street, Room 2001  
San Francisco, CA 94103

### **Hearing Procedures**

Prior to the hearing, the Director of the Department of Building Inspection and the Fire Marshal will review the materials submitted by the appellant and will separately submit recommendations for disposition of the appeal to the Board of Examiners.

At the hearing, representatives of the Department of Building Inspection and the Fire Department will introduce the case to the Board of Examiners and present their recommendations. The appellant may then present their argument. The appellant may include the testimony of recognized experts to substantiate their petition.

The Board of Examiners will render a decision at the public hearing, or may continue the case to the next meeting pending submittal of additional data or clarification. When the Board of Examiners arrives at a conclusion, a resolution called a "Notice of Decision" detailing the decision and recommendation will be prepared by the Secretary of the Board of Examiners, filed with the Director of the Department of Building Inspection. A copy of the "Notice of Decision" will be mailed to the appellant. The Secretary of the Board of Examiners will prepare official meeting minutes for approval at the next meeting. It is recommended that the applicant attach a copy of the "Notice of Decision" to any related permit application.

The Notice of Decision shall be microfilmed as part of the official records for the property.

### **Rehearing**

A rehearing may be requested by any party when there is substantial new evidence which could not have been submitted at the time of the original hearing. Upon approval of a request for rehearing by the Board of Examiner, a date of a rehearing will be set.

### **Appeals**

Where appellants do not agree with the decision of the Board of Examiners regarding a variance from requirements of the codes or where the appellants are denied the use of a new material, method or type of construction, the appellant may appeal the Board of Examiner's decision to the Building Inspection Commission.

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Vivian L. Day, C.B.O. Date  
Director  
Department of Building Inspection

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Barbara Schultheis. Date  
Fire Marshal  
San Francisco Fire Department

Approved by the Building Inspection Commission on September 18, 2002

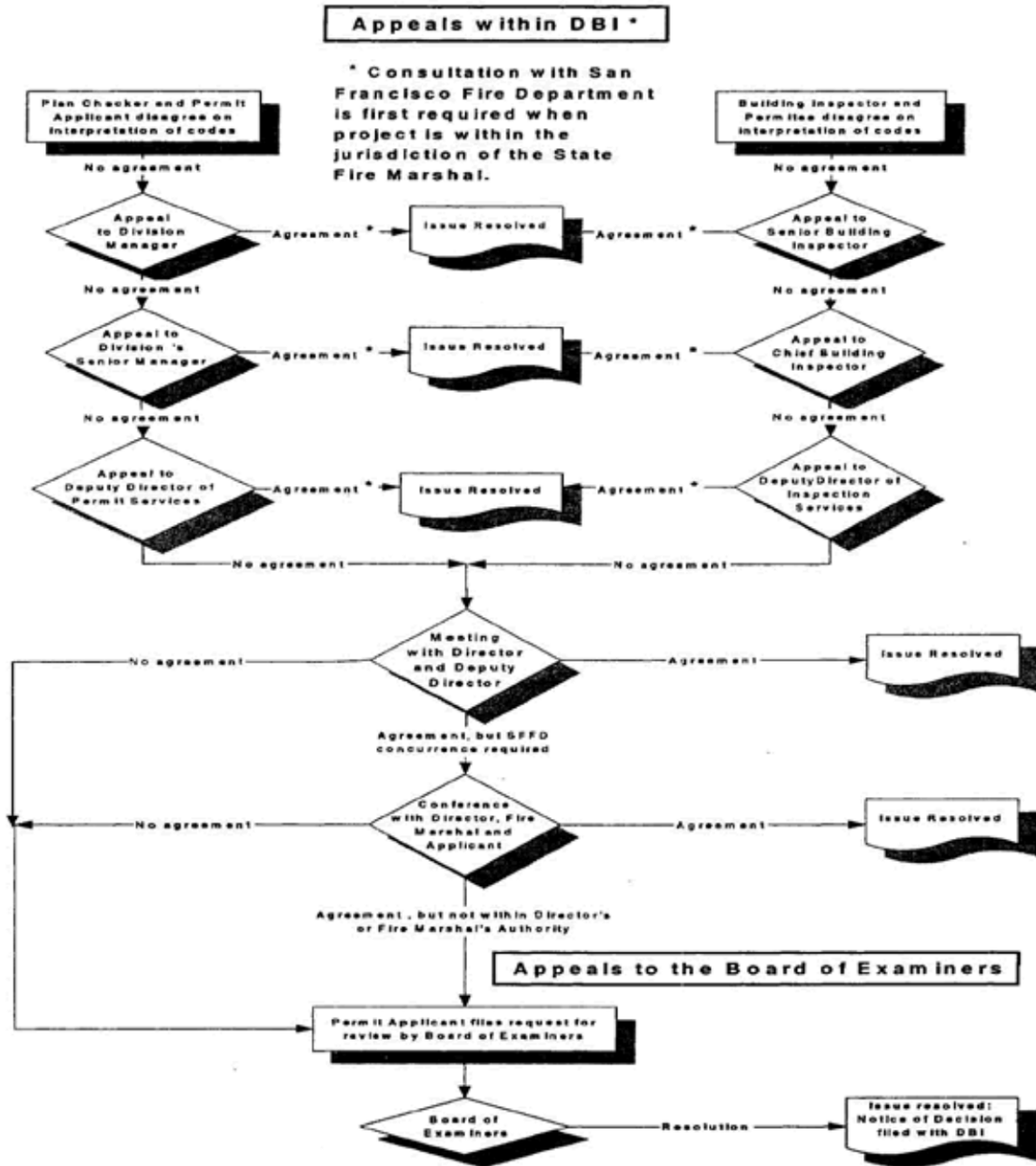
Attachments: Diagram AB-042: Board of Examiners Appeals Process  
Form AB-042 Board of Examiners of Examiners Request for Hearing

Originally signed by:  
Gary Massetani, Fire Marshal  
October 9, 2002

Frank Y. Chiu, Director  
October 3, 2002

Diagram AB-042

**CODE INTERPRETATION APPEALS PROCESS**



**BOARD OF EXAMINERS  
REQUEST FOR HEARING  
FORM AB-042**

Case No.:	Date Filed:	Fee:
Address:	Block & Lot:	Application No.:
Applicant's Name:	Title:	Telephone No.:
Building Occupancy/Use	Signature of Applicant:	

1. Code Section \_\_\_\_\_ of the San Francisco Building Code cannot be entirely satisfied because:

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2. In lieu of complying exactly with the code, the following alternative is proposed as a means of providing an equivalent degree of safety:

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3. Supporting arguments are: (attach additional information)

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**official use only**

Recommendation:	Acceptance	Date	Denial	Date
Director of Building Inspection				
Fire Marshal, SFFD				

4. Board of Examiners' action:

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