

**BOARD OF VARIANCES AND APPEALS
SITE VISIT
JUNE 25, 2009**

APPROVED

Maui County Board of Variances and Appeals
Meeting Date: Sept. 10, 2009

A. CALL TO ORDER

The site visit of the Board of Variances and Appeals (Board) was called to order by Chairman Randall Endo at approximately, 8:44 a.m., Thursday, June 25, 2009, at 2260 Kamehameha Highway, Kawela, Molokai, Hawaii, TMK: (2) 5-4-017:029, Island of Molokai.

A quorum of the Board was present. (See Record of Attendance.)

Chairman Randall Endo: Good morning, everyone. We'll now call the site inspection to order of the Board of Variances and Appeals. It's now 8:44 a.m., and there is a quorum of six Members present. We'll now call Item B-1 on June 25, 2009.

B. SITE INSPECTION

1. **Site inspection of property located at 2260 Kamehameha Highway, Kawela, Molokai, Hawaii, TMK: (2) 5-4-017:029, for the following variance request:**

RONALD KIMBALL requesting variances from Maui County Code, §§16.08.060(A) and (E)(3) to allow a covered deck expansion and roof overhang to be within less than one (1) to five (5) feet from the rear property line whereas six (6) and three (3) feet are required (respectively) for an after-the-fact building permit (B T20090021) for property located at 2260 Kamehameha Highway, Kawela, Molokai, Hawaii; TMK: (2) 5-4-017:029. (BVAV 20090004)

Chairman Endo then read the agenda item into the record.

Chairman Endo: Okay, so at this point, we'll open it up for public testimony. Is there anyone here who wish to provide public testimony at this site inspection? Hearing none--

Mr. Ronald Kimball: Can I provide for myself?

Chairman Endo: You can, if you want to. Yeah, you'll be limited to three minutes. And we can always ask you questions, too, but go ahead.

Mr. Kimball: Yeah, public testimony, I wish you guys could approve my extension. And I wanna apologize for doing it after-the-fact. Being a former Member of Molokai Planning Commission and the County Community Plan Member, I should've known better, but I apologize for going after-the-fact. I support my deck expansion. That's about it.

Chairman Endo: Okay. Thank you. Anyone else wish to provide public testimony? Hearing none, we'll now close public testimony for the site inspection. And, Francis, you're going to take us around, or somebody going to--?

Mr. Francis Cerizo: Well, the staff that's providing assistance in this variance request is Public Works, Development Services Administration. And we have two Members from the Public Works

Works, Development Services Administration. And we have two Members from the Public Works Department, and maybe they can introduce – I know there's a new person here, but maybe they can introduce. Jarvis is – he's from DSA – Chun.

Mr. Jarvis Chun: Supervising Building Plans Examiner. And we have Molokai Building Inspector–

Mr. Anthony Fukuoka: Anthony Fukuoka.

Mr. Cerizo: And maybe what you can do is just tell us what the variance is. We can't– The one foot, and then the five feet, where the property line is, show us the property line.

Mr. Kimball: Actually what I gotta do– The property line is right here. And it's the – the deck extension's at ten feet. I have to – I'm cutting it back to two feet. When I cut this thing back, the property line kinda runs right here. And this is all accretion from whenever the County maps were made. Also, in my staff report, Item No. 16, and I tried to bring it up to you guys' attention, Item 16 it says that I have enclosed a land survey done by this guy, James Foster. And I also, subsequent to the James Foster survey, he did one for me in '86 when I bought the property. Then he came back and did – redid the shoreline so I could get permits to build the house in '88. And I had the shoreline reassessed again in October '08 and it's not reflected in here. So I have three certified shoreline documents in my docket if you guys need to see it. And the rationale behind that, I wanted to show you guys the land accretion. And basically from the left boundary of my property, we've accreted about 35 feet. And over here on the right side, I've accreted about 28 feet. So that being said, when I cut this deck back, I'll be about eight inches away from my property line here, and about five feet away from the property line on that side. And both of them . . . (inaudible) . . . That's why I want to get the extension. If you guys don't grant me the extension with this property line being over here, I can only bring my deck out two feet, and I can only come out to here. And what you see there is my original deck from when I built the property 20 years ago. And what we wanna do is repaint the deck, but then my wife and I decided to take everything off and put composite decking on top. Just take off the old wood. And since we decided to do that, we wanted to get more space. So we decided to take off the composite and to extend our deck all one time. So without the variance, the most I can go is two feet. And like basically, she's standing on the property line right there. So if you guys can look from where she's standing to where the beach line is now, I've gained all of this in the past maybe about 40 years.

Mr. James Shefte: So are you saying that the waterline originally was about here?

Mr. Kimball: I have no clue. I don't know how the maps were drawn back then, but when I bought the property line – the property, the maps at the – you know, the TMK? When I had the surveyor come and he took the original pins out, you know, I went, whoa, look all the accretion. And if you see where the coconut tree – there was a coconut here, there's one back there, and I had two more down there, that is where the beach was when we moved in back there. And I don't know if you can see sprinklers. My sprinklers was put in and then the beach started. So what you see is all the sand has accreted in the past 20 years. I've gained all of that.

Mr. Cerizo: Do you have your actual pins out here?

Mr. Kimball: They had it marked. Newcomer Lee Surveying Company did it. I don't see it, but they

recorded it.

Mr. Cerizo: I mean, the actual pin itself. Do you have the pin on the other side? On the other front?

Mr. Kimball: Other than the drawings from Newcomer Lee, no, I don't see any pins.

Mr. Cerizo: We just went down there to see if there was a hub, and we couldn't find it, but is there a question?

Mr. William Kamai: So the original survey that you had done by Mr. Fisher—

Mr. Kimball: Foster.

Mr. Kamai: Foster, was again, over here?

Mr. Kimball: Here's the Newcomer Lee survey. And on top of this big one, he notes the other surveys. This is the one that was done in '88 when I started to build the house. And this is in '86 when I bought the property. And this was in '88 when I built the house. And this is 2008 right now as of October. This is where we're at right now. And I think this is 30'. If I go from the corner here, it's like 30-plus feet on this side and like 28' from the high mark down.

Chairman Endo: What kind of seasonal variation do you have in your area?

Mr. Kimball: Seasonal variation—what do you mean by that?

Chairman Endo: Like, you know, like the winter, the sand go away, the summer, the sand come back.

Mr. Kimball: It's starting to accrete some more. In the summer months when you get the big high tides, it's starting to . . . (inaudible) . . . right now. I looking at the— A few months ago, it dropped. Now, I see it sloping, sloping down. When the high tides . . . (inaudible) . . . , it pushes it, pushes it, pushes it, and brings stuff in. Whereas in the winter months, it kinda drops off. So like right now, it's accreting. Right now, it's accreting.

Chairman Endo: So in the winter it comes in a little bit more?

Mr. Kimball: No, it stays. It doesn't move out with the winter, but during the summer, it pushes in. It pushes in. So I kinda keep gaining. So that's why it was real critical the staff on Maui said to put the surveys in the file to show you guys that over the course of so many years I've gained property. And you go down here maybe about 200 yards, the homes down here down to One Alii Park losing property. They losing.

Mr. Stephen Castro, Sr.: You mentioned that one of the surveys was not included in the packet that was submitted?

Mr. Kimball: Yeah, I was looking at the report right here. See the report reflects only the first survey done by James Foster. He did two of them: '86, '88, and then I have the '08. So I was calling staff.

I hope they provided you guys the right information that there was three 'cause my case to you guys was based on the fact that I gaining land.

Mr. Cerizo: This map here was part of the record.

Mr. Kimball: And the other two was supposed to be inside there. And since I had the stop order in September, the first week in September right after Labor Day, I haven't touched anything. This is how it was a year ago.

Chairman Endo: So where is the approximate boundary line in this area right here?

Mr. Kimball: I would say maybe about here because if I go back two feet, I'm right at five feet from the boundary line. I don't make the six feet on this side. I'm close. Over there is the problem. I would say it's right about right here.

Mr. Cerizo: If there's any questions, you have to speak up so Tremaine can record it. Please come up to the mic.

Mr. Shefte: I have a question just so I'm clear, the deck is actually out beyond the property line, is that right?

Mr. Kimball: On that corner.

Mr. Shefte: Just on that one corner?

Mr. Kimball: From here, it has to come back. Newcomer Lee would not file the survey so this has to be cut back.

Mr. Kamai: You have to . . . (inaudible) . . . ?

Mr. Kimball: Yeah, two feet.

Mr. Chun: Till you file that survey from – to whom?

Mr. Kimball: DLNR. This whole thing, everything. And I spoke to the contractor guy that was pulling up the . . . (inaudible) . . . It was not a problem.

Mr. Kamai: So your footing, all that has to go back?

Mr. Kimball: Exactly, gotta come out, yeah, everything. But then what it does, you know, we looking at the County Codes and stuff. It's gonna safely put me, if you guys do approve the variance, it would safely put me back the distance I need from the high water mark to the deck. Like right now, with my present plans, it's like right there. I can make it. But like now with the two feet gotta go back, I got room to spare from the high water mark to the closest point. Yeah, 'cause this thing all cemented in, too, up to here, so going be big work to hammo all that, but gotta, gotta.

Chairman Endo: Francis, do you know what the flood elevation is over here?

Mr. Kimball: We're not in the flood zone because on my insurance company, I don't pay for flood insurance.

Mr. Cerizo: Well, typically in this area, it's at three feet. Have you applied for an SMA permit?

Mr. Kimball: I gotta get this first. Then the SMA contingent upon how far I come out over here. Because if you guys deny my variance, then I gotta go back to . . . (inaudible) . . . feet.

Mr. Cerizo: Besides the SMA, there's the Shoreline Setback Rules. Usually, there's the 40-foot setback or 25-foot setback depending if you're a shoreline property. I'm not sure if this is considered a shoreline property or not.

Mr. Kimball: I think it was 30 or something like that. But anyway, what's her name came by, and we looked, and we pulled out her tape measure and everything. If the variance was approved, and I come up with the eight-foot mark, according to Nancy, I'd be okay. But to answer your question, yeah, I still gotta file for the SMA.

Chairman Endo: Does anybody have any more questions or want to see anything else? No? Okay, we'll adjourn the site inspection or we'll close the site inspection at this time. And then we'll continue with our next agenda item at 10 o'clock at the Mitchell Pauole Center.

There being no further business to come before the Board, the meeting adjourned at approximately, 9:02 a.m.

Respectfully submitted by,



TREMAINE K. BALBERDI
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Members Present:

Randall Endo, Chairman
James Shefte
Sandra Duvauchelle
William Kamai
Stephen Castro, Sr.
Rachel Ball Phillips

Members Excused:

Kevin Tanaka, Vice-Chairman
Harjinder Ajmani

Others:

Francis Cerizo, Staff Planner, Planning Department

Carolyn Cortez, Staff Planner, Planning Department

James Giroux, Deputy Corporation Counsel, Department of Corporation Counsel

Jarvis Chun, Supervising Land Use and Building Plans Examiner, Development Services
Administration, Department of Public Works

Anthony Fukuoka, Building Inspector, Development Services Administrative, Department of Public
Works