

**BOARD OF VARIANCES AND APPEALS
REGULAR MEETING
JULY 14, 2011**

(Approved: 8/11/2011)

A. CALL TO ORDER

The regular meeting of the Board of Variances and Appeals (Board) was called to order by Chairman Kevin Tanaka at approximately, 1:35 p.m., Thursday, July 14, 2011, in the Planning Department Conference Room, first floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

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

Chairman Kevin Tanaka: The meeting of the Board of Variances and Appeals will now come to order. It is now 1:35. Let the record show we have a quorum of seven. Let's see, the first item on the agenda, Trisha.

B. PUBLIC HEARING

1. **PAUL L. HORIKAWA, ESQ. representing GARY SHIM, KIMO SHIM, KATHRYN RENAUD, HOWARD SHIM, FLORENCE LEONG, LILLIAN MORREIRA requesting variances from: (1) Maui County Code (MCC), §18.16.060(C) to allow the use of an approximately 15-foot wide access street to a subdivision whereby the access street right-of-way shall be at least 24 feet wide; and (2) MCC, §18.20.040 to delete the requirement to install a minimum pavement width of 20 feet for the access street to an agricultural subdivision (Waiohului-Keokea Homesteads; DSA File No. 2.3081) located at 9300 Kula Highway, Kula, Maui, Hawaii; TMK: (2) 2-2-003:004 (BVAV 20110007).**

Ms. Trisha Kapua`ala read the agenda item into the record.

Chairman Tanaka: Does the applicant have a presentation?

Mr. Paul Horikawa: Well, we do have a presentation, but before I go into that, what I'd like to do is request some relief from the Board. And this is based upon— You know, we did receive the report after we had filed the application, but I received a call earlier this week. I believe it was on Tuesday from Todd Gray who works with the Hawaiian Homes Commission. And he did express to me his position – the Hawaiian Home Lands' position regarding this matter. And there is a letter, I believe, that's in front of you that's signed by Linda Chinn, the Administrator, for the Land Division for the Department of Hawaiian Home Lands. And in that letter, I think their position – one, they believe that the variance should – well, they're suggesting or urging the Board to deny the variance. And the reason why they want that or asking the Board to deny the variance is that they believe that the Shims don't have legal access from Kula Highway to their property. And we don't think that's correct, but nevertheless, Bruce Lee is the individual who is processing the subdivision. And we had asked him to be here, but he had a prior commitment. Bruce is – I don't know if you folks know Mr. Lee, but he is a minister, and he's attending a conference on Oahu, and couldn't be here today.

When I spoke to Mr. Gray, he had mentioned that he had reviewed a map that had been prepared by Bruce. And that was the basis for the position that's stated in the letter that was sent to you by Ms. Chinn. Before he left, I did have an opportunity to speak to Mr. Lee, and he believes that there is access to the property. The documents that support the application, and this is the title report that was issued by Title Guaranty, indicate that the property – that the Shims and the Morreiras – they – you know, their property, which they acquired over 50 years ago does have an access to Kula Highway.

But what I would like to do is ask that this – the hearing on today's application be postponed until September 22nd. I did check with staff and that date is available. And I also informed Mr. Gray that because of his concerns, what I would – I would be coming before the Board today and asking for the continuance. And I also advised him that I would inform him of the new hearing date, if the Board were to grant the request. And it leaves a funny feeling when we have this unresolved issue. I think it could be resolved today, but I would prefer to have someone with Mr. Lee's expertise explain to the Board on why he believes that the concern of the Hawaiian Homes is not really accurate. And that's my request before the Board today.

Oh, and just so the record is clear, also present is Maile Morreira and her husband, Dave. And if you have any questions for any of us, we're available. But in lieu of that, I'd like to request that. And what I didn't wanna do is put on a presentation, and have to come back and do it again. And so I would just ask that the Board consider that request and we can move forward from there.

Chairman Tanaka: Mr. Horikawa, so that September date has been confirmed that Mr. Lee would be here, would be available?

Mr. Horikawa: I'm sorry?

Ms. Kapua`ala: Oh, no, I'm double checking with our Board Secretary. September 22nd is available.

Mr. Horikawa: That's what I was told. If it presents a problem, I'll communicate with Trisha on that.

Chairman Tanaka: Okay. As far as – well, because it was – as far as notice, if there's anybody here from the public who wishes to testify on this matter, they may do that now so that they do not have to return on that September date.

Mr. Horikawa: Mr. Chair, Mr. Amoral said that they'll return on the September date.

Chairman Tanaka: Okay. Thank you. That would be appreciated, I think, rather than having to go back to your testimony a couple months from now. Okay, so if there's no objection from the Board, I guess we would put this matter – call it deferred to that – sorry, was September 22nd the date? September 23rd date?

Mr. Horikawa: And my apologies to the Board. I tried to contact the Department earlier to get this postponed, but they said we had to go forward today. So my apologies to the Board.

Chairman Tanaka: One other question. The letter from the Department of the Hawaiian Home Lands is dated the 12th, two days ago. So this was something you didn't see coming?

Mr. Horikawa: Well, I did speak to him the day before. And I think it was almost at about 4:30, somewhere thereabouts. I had thoughts of just going home and not answering the phone, but I made the mistake of answering the call.

Mr. Rick Tanner: I do that all the time.

Mr. Horikawa: So I did speak to— No, it was about four o'clock. I did speak to Mr. Gray. And then I communicated that to Trisha because I wanted her – in all fairness, I thought that the staff should be aware of what's happening. But aside from that, it came out of left field.

Chairman Tanaka: Okay. So if no objections from the Board, we'll defer this matter to that September 22nd date.

Mr. Horikawa: Thank you, Mr. Chairman.

Chairman Tanaka: Thank you. Okay, let's move to Item C, Approval of June 23rd's meeting minutes.

C. APPROVAL OF THE JUNE 23, 2011 MEETING MINUTES

Mr. Tanner: I make a motion that the minutes be approved.

Mr. Ray Shimabuku: I'll second.

Chairman Tanaka: It's been moved and seconded. All in favor, please say aye. Any opposed?

It was moved by Mr. Tanner, seconded by Mr. Shimabuku, then

VOTED: To approve the minutes of the June 23, 2011 meeting.

**(Assenting: R. Tanner, R. Shimabuku, B. Santiago, B. Vadla,
J. Haraguchi, P. De Ponte.)**

(Excused: S. Castro, R. Phillips.)

Chairman Tanaka: **Minutes approved.** Item D, Director's Report.

D. DIRECTOR'S REPORT

1. Status Update on BVA's Contested Cases

Ms. Kapua`ala: There are no updates to report.

Chairman Tanaka: No updates. Okay, our next meeting: July 28th.

E. NEXT MEETING DATE: July 28, 2011, Thursday

Chairman Tanaka: Do we know – do we have – do we know what's gonna be on that agenda?

Ms. Kapua`ala: There is nothing scheduled at this point.

Chairman Tanaka: It's been a while since we've had– Okay, anything else, Board Members? No? Wow, six minutes long. Meeting adjourned.

F. ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 2:04 p.m.

Respectfully submitted by,



TREMAINE K. BALBERDI
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Members Present:

Kevin Tanaka, Chairman
Rick Tanner, Vice-Chairman
Ray Shimabuku
Bart Santiago, Jr.
Bernice Vadla
Jacqueline Haraguchi
Patrick De Ponte

Members Excused:

Stephen Castro, Sr.
Rachel Ball Phillips

Others:

Trisha Kapua`ala, Staff Planner, Planning Department
Lance Nakamura, Civil Engineer, Department of Public Works, Development Services Administration
James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel