

**BOARD OF VARIANCES AND APPEALS
REGULAR MEETING
August 11, 2011**

(Approved: 9/8/2011)

A. CALL TO ORDER

The regular meeting of the Board of Variances and Appeals (Board) was called to order by Vice-Chairman Rick Tanner at approximately, 1:35 p.m., Thursday, August 11, 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.)

Vice-Chairman Rick Tanner: The meeting of the Board and Variances – Board of Variances and Appeals will now come to order. It is now 1:35 p.m. Let the record show we have a quorum. Will the staff read the notice of public hearing and state the purpose of this application?

B. PUBLIC HEARING

1. **DENNIS SCHOB**ER requesting a variance from Maui County Code, §19.30A.030 to allow a 52-foot long metal and stone gate structure, ranging from 2 feet-11 inches to 9 feet-5 inches in height, to exceed the 4-foot height limit for walls located within the agricultural setback area, for property located at 78 North Lauhoe Place, Launiupoko, Lahaina, Maui, Hawaii; TMK: (2) 4-7-012:013 (BVAV 20110006).

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

Ms. Kapua`ala: And I do have a video presentation for the board.

Vice-Chairman Tanner: Thank you.

Ms. Kapua`ala: Actually, let me start off with this location map. This is actually a Bing image. This is Honoapiilani Highway. This is the main entrance up to Launiupoko, the Launiupoko Subdivision, the subject subdivision, and here is the subject property: North Lauhoe Place. It's actually at the end of the cul-de-sac. This is the lot. This is the subject structure in question, the applicant's main house, and second farm dwelling.

And here's a video, which is not working. Hold on one moment. So here's the subject structure, the gate, the column walls, and the decorative wall, Lauhoe Place, the cul-de-sac, West Maui Mountains. Maybe we can kill the lights. It might help the imagery. Again, Lauhoe Place. Those walls, I will focus on later in this video presentation. This viewpoint is actually from the applicant's property. So all of that is still on the subject property; driveway going up to the farm dwelling; and the gate structure, along with the column walls.

This is the neighboring property, and I did measure this, and it seemed to be out of the 25-foot setback, but, I don't – at the time, I wasn't sure where the property line was. This is another

neighbor, within the Lauhoe cul-de-sac, North Lauhoe Place, and I'm pretty sure those columns are out of the setback area. The applicant's property is right here. I think that might conclude the video right here. Okay, thank you, Board.

Vice-Chairman Tanner: Okay, thank you, Trisha. Will the applicant please come forward and speak into the microphone and state your name?

Mr. Dennis Schober: Dennis Schober.

Vice-Chairman Tanner: Mr. Schober, are you agreeable to the waiving of the reading of the staff report?

Mr. Schober: I'm not sure what the staff report contains. What does that refer to?

Vice-Chairman Tanner: It's the document you should've received with regard to the staff's analysis.

Mr. Schober: Oh, yes. Yes, that's fine.

Vice-Chairman Tanner: Okay. Would you like to make a presentation before the Board? Or make any comments with regard to the staff report?

Mr. Schober: Yes, and again, I'm not familiar with that document. Was that part of the violation you're referring to?

Mr. James Giroux: Do you have a copy?

Mr. Schober: I may not.

Vice-Chairman Tanner: Staff, do you have a copy that you can give to the applicant?

Ms. Kapua`ala: I do.

Vice-Chairman Tanner: If you haven't seen this, we should certainly give you an opportunity to read that first.

Mr. Schober: No, I have not seen this document.

Vice-Chairman Tanner: Staff, do we know if that was mailed to the applicant?

Ms. Tremaine Balberdi: Yes, he should have gotten it with his agenda. Did you get the agenda?

Mr. Schober: The agenda for this hearing? I'm not recalling that. This is my application.

Ms. Kapua`ala: . . . (inaudible) . . .

Vice-Chairman Tanner: Board, we're gonna take a five-minute break.

(A recess was called at 1:42 p.m., and the meeting reconvened at 1:51 p.m.)

Vice-Chairman Tanner: We're gonna call the Board back to order. Mr. Schober?

Mr. Schober: Okay, thank you. I've had a chance to read the staff report, which I had not received. Apparently, it was mailed while we were in transient to coming – to relocate back to Maui. So it 's probably still being – our mail's been forwarded, so this is the first opportunity I had to read it.

Vice-Chairman Tanner: Okay, before you continue, I want to make sure it's entered into the record that the Department of Planning withdraws its motion to intervene, which would've brought this before a hearings officer, so we will continue as normal, and you can make your presentation.

Mr. Schober: Okay, thank you. I want to thank you for preparing such a great video. That really helps explain the situation that we have. I had brought some extra pictures, but I think that will suffice.

As with many of the home owners in Launiupoko, we were all kind of blind-sided by this situation. We recently – we moved to the island in 2007, and purchased the home from a builder who had already built it. It was a new home, and again, we were told that everything complied. Obviously, hearing everything's that's going on in the neighborhood, apparently not all of the structures comply with the ordinances, so that's news to us.

I believe our situation is unique, and I think the staff report does give us some leeway here in that only the columns are really at issue here. They're, I think, about three-foot in diameter. And given the size of the five-acre property, and as you saw by the video, it obstructs no view, or light, or air in any significant way at all. In fact, you can barely see them with all the vegetation that is growing up along the longer roadway.

What's unique about our property as opposed to the neighbors where you saw their gates, firstly, those are new properties that were – their walls were constructed after all these issues came up. So, I would've loved to have our builder build the wall not inside the setback, but that's going back before 2007. Their properties, the ones that were shown in the video, also are below us, and the views are all to the ocean, no one's looking up to the hillside, and if they were, all you would see is our coco trees, which primarily screen any views to the mountains. So again my point is, what is unique about our property is the location of the structure, and how it is really not blocking anybody's view.

And I don't know who filed a complaint, but I've been talking to our neighbors. No one of our neighbors filed a complaint. So I don't know how that began either.

We – the gate structure, as you saw, is a metal gate mechanism, and the lava rock structure was built to make the gate structure look nicer. As you saw by the video, the gate structure – oh, sorry, the rock structure blends, and steps down very quickly, and blends into the landscape. So, when it was designed, it was intended to not stand out and be obtrusive. In fact, if the gate, the rock structure was removed it would actually look worse cause you'd see this big metal lift mechanism.

So I guess I'm just asking for the Board to be – to grant a variance, because I think we have shown

that it is exceptional. As I listed in – I don't want to reread everything in the staff report where my application is basically verbatim. Listed, those are my arguments that I'm sure you've read. But, I believe it is an exceptional case, and really, the only portion that the Board has to review is the columns. Everything else I think the staff report says are really not significant, and they're willing to grant, or recommend granting a variance for that.

Vice-Chairman Tanner: Is that it? Okay, we're now going to move to any questions that the Board may have of the applicant.

Vice-Chairman Tanner: I'll start. You purchased the home in 2007, and the gate was as it is? You didn't–?

Mr. Schober: Correct, it was as is.

Vice-Chairman Tanner: Okay. You got – I've seen some statements in here with regard to, I guess, maybe or maybe not it's speaking to the–how would I put this–the criteria that we have to use and preventing crime, which I would agree that the gate would do that. However, I don't know that a four-foot gate would be any more preventive than a nine and a half-foot gate. So, I guess I don't understand that argument.

Mr. Schober: Yes. The actual height of the gate I believe is about five feet. And that's – if you refer to the pictures I sent or in the video, there's a large lift gate mechanism. And so the five feet would be required just to – you know, it's the same height as the gate mechanism, which I can't alter. The columns, which extend beyond that, I agree, you know, don't offer more security, but they are integral to the stone wall structure. I had a quote. And just to modify that stonewall structure was \$8,500, and that was just to bring it down to four feet. That wasn't to tear the whole thing out. And so what we're talking about is a lot of money to simply reduce from – reduce the columns to the height at the top of the gate. And I just think given the fact that we didn't – and this was in my application, we didn't cause this issue. This issue was clearly a miscommunication apparently, between the county and the builders at the time as there are many, many homeowners who have fallen victim to the same thing, which is we simply bought a home and expected it to comply. So you're asking a homeowner who did nothing wrong to have to spend \$8,500 to reduce a column about 20 inches. I think 17 inches is what the staff report says. And that just seems very unreasonable when there would be no benefit to the community, no benefit to the aesthetics, no blocking of visual light. So it just seems like a big waste of money. And even there they said with the – the reason it's such a big amount–that was only an estimate–is because when you start tearing into the rock wall, they don't know what else it will destroy below. And so they may have to tear down further and then rebuild back up. So, even there, it was an estimate.

So I guess I'm just asking, I think, you know, there's no – I think we can grant a variance, because there is no detrimental effect to the neighborhood. And back to the security, the security is – there's no street lights working in the area, it is very dark there at night, and it's very remote. The two neighbors below me, their house is under construction. There's no one even living there. And beside me are vacant lots. So we do have illegal activity. I don't know if it's drugs or just parties in the evenings. So we already had one burglary, where they stole, as it says, a TV, VCR from our home, so we do need the gate.

Can I add a further statement? If you look at the elevation of the property, the – when they measured the height of those pillars, they're measuring in the worst case situation. They're measuring the front side from the road. Well, Trish, I don't know if you can pan back. But actually, we've cut in about two feet into the upside of the natural elevation to set those pillars in. If you scroll back, see how they're – the planter there? The normal grade would've chopped off about 18 inches or so from the – from that pillar as it continues down. We cut into that grade, to set the – we didn't do it, but the builder did, to set the stone wall there. That was the original misunderstanding. I measured for this application, our side of the gate, and that's where there it was mentioned in the staff report, the discrepancy, where they're measuring from the front side of the gate.

Vice-Chairman Tanner: So to make sure I'm clear, we're only talking about the columns here? The walls on either side of the columns are where they should be, height-wise?

Ms. Kapua`ala: At the highest measurement, the wall structure which is beside the columns are 5 feet 3.5 inches. Oh no, I'm sorry, that's the metal gate. Five feet 6 inches for the operating system.

Vice-Chairman Tanner: So you've got a few feet of the wall also that exceed?

Ms. Kapua`ala: There is a few feet. I can't locate the exact measurement at this point, but the operating system is 5 feet 6 inches and the wall is almost parallel to that. You know, I have my measurements that I did myself on the field. Let me get the video out. Because, like Mr. Schober said, this was cut. This grade was cut. So, the wall at this height is 5 feet 6 inches. Just as an example because there's no view from here, the wall from here because the grade is still in its original state is 3 feet 10 inches. So, if you measure the wall from here, it exceeds. However, if you pass this operating system area where the grade has been cut, the grade still remains, and the wall is then measured as 3 feet 7 inches.

Vice-Chairman Tanner: Staff, do we have any letters of support or opposition?

Ms. Kapua`ala: No.

Vice-Chairman Tanner: And I assume, Mr. Schober, that you don't have any?

Mr. Schober: No, I do not.

Mr. Bart Santiago: I have a question. When this structure was built, was it permitted?

Ms. Kapua`ala: Was it--? I'm sorry?

Mr. Santiago: Was a permit required to build the structure?

Ms. Kapua`ala: According to the Department of Public Works, a permit is required for a wall that is six feet – that exceeds six feet in height.

Vice-Chairman Tanner: And it's my understanding there's no permit for this?

Ms. Kapua`ala: Mr. Schober, would you know?

Mr. Schober: I do not know. Again, we bought the property as a complete, you know, parcel. I think it is worth noting though that–

Vice-Chairman Tanner: I thought I read in the report that there was no permit.

Ms. Kapua`ala: I have the list of permits here in front of me. According to the records, there's a permit for the first farm dwelling, swimming pool, spa, second farm dwelling, electrical permits for underground service. For the second farm dwelling, pool bonding, petroleum gas, gas for the first farm dwelling, a miscellaneous inspection for the swimming pool, a plumbing permit for the first farm dwelling, a plumbing permit for the second farm dwelling, but no building permit for the subject structure.

Vice-Chairman Tanner: Now, even if this was within the height restriction, the height limit, would a permit still be required to build it or no?

Ms. Kapua`ala: No.

Vice-Chairman Tanner: Okay.

Ms. Kapua`ala: Because, if it was in the height restriction, it would be four feet or less, and the building permit requirement is triggered for six feet or greater for walls and not fences.

Mr. Santiago: How far is it from the roadside?

Ms. Kapua`ala: The applicant gave the length of 54 feet 7 inches to 59 feet away from the center line. And with – in consultation with the Department of Public Works, we determined that the center line to the edge of pavement is 35 feet with a 15-foot wide shoulder area totaling 15 feet – 50 feet. Therefore, the wall is approximately 4 feet 7 inches to nine feet away from the property line. And again, the setback requirement is 25 feet.

Mr. Stephen Castro: I have a question, Mr. Schober. When you purchased the property from the contractor or builder–?

Mr. Schober: Yes, Brown Development.

Mr. Castro: Did he mention everything was in compliance?

Mr. Schober: Absolutely. We would never have bought a property that wasn't. So, yes, he builds – a number of homes in the area. And we fully assumed and expected it would comply.

Mr. Castro: Who was the contractor?

Mr. Schober: Brown Development. Greg Brown is the builder.

Mr. Santiago: Is he a still an active contractor on island?

Mr. Schober: Yes. I believe he's building right behind us, another house.

Vice-Chairman Tanner: Do you know whether you have – and again this was back in 2007, but something in writing that affirms that everything is within code?

Mr. Schober: I'd have to check the closing documents that there's something to that effect. But, yeah, I don't know if they're anything from him else than that. But I think it's pretty common, you know, when you're building a house. And I know there was many conversations that he had to get inspections and – of plumbing and electrical in order to get an occupancy permit. I remember discussions about that. And we waited for him to do all that before we moved in. Yeah, we talked about the easement on the side of my property, and how that was having to be granted. So again, everything, our expectation was that it was fully compliant.

And to answer your question, sir, I measured it this morning. It's 23 feet from the edge of the pavement to the column. That's how far it is from the edge of the cul-de-sac feet. So it's not up against the – you know, right against the road.

Mr. Santiago: So the wall was there when you were looking at the property to purchase, the wall was already built?

Mr. Schober: Well, we first saw the property, it was about 80 percent complete. The interior wasn't fully complete. So they completed the pool and the gate structure right around the same time as the pool and the interior. So, no, not 100 percent complete when we first saw it, but by the time we finalized the purchase and moved in, it was complete.

Mr. Santiago: The gate, as far as the gate, was the gate there when you were looking at the property?

Mr. Schober: Was the gate–? The first time we looked at the property, no, there was no driveway or gate. There was nothing there. It wasn't until – again, it must've been five months between when we first saw the property and when they finally finished it that – that was all completed. We were actually not on island. I live in Seattle for part of the year. We are now – we're relocating back to Maui.

Mr. Santiago: I'm just trying to establish the timeline if he was able to secure the occupancy permit, and then build the gate, after-the-fact.

Mr. Schober: I couldn't answer. I'm sorry. I couldn't answer that. Although, I was – I recall that he put the driveway in. All that was in the same time because that's kind of heavy, heavy work. I don't know when he got the occupancy permit. No, I don't know the date.

Mr. Castro: Is that gate an electric gate?

Mr. Schober: Yes, its one of those that looks like a big knife that goes straight up, and so you saw the large green box behind the wall. So I understand he built – he's built some others that way where you kind of conceal that box with the rock.

Mr. Castro: Where's – where's your electrical panel?

Mr. Schober: At the house.

Mr. Castro: At the house?

Mr. Schober: Yeah.

Mr. Castro: So they had to come from the house?

Mr. Schober: Right, run it down.

Mr. Castro: Run the line all the way down?

Mr. Schober: Correct, yeah, and a phone line as well.

Ms. Kapua`ala: Excuse me Mr. Chair. I'd like to clarify something for the record. The edge of pavement is not where the property line is. From the property – from the edge of pavement, there's still a 15-foot wide shoulder area that is undeveloped, so it's still grass. So, when you measure 23 feet in from the edge of pavement to the wall, that's not an accurate measurement from the property line. And I would also like to confirm Mr. Schober's statement. I did look at the building permits and Brown Development was the general building contractor for the subject property.

Mr. Ray Shimabuku: So, Mr. Chair, item no. 16 on the background on the Planning Department state that they have no record of a building permit on this subject wall. So there's no evidence that the wall was built at the time of the home purchase.

Vice-Chairman Tanner: Correct. Any more questions from the Board? At this point, we'd normally go into public hearing, but I don't see any members of the public here. So we will close public hearing. And may we have staff read the staff's recommendation?

Ms. Kapua`ala: Based on its analysis, the Department of Planning, finds that:

1. There is no exceptional unique or unusual physical or geographical condition existing on the property, which is not generally prevalent in the neighborhood or surrounding area;
2. That strict compliance with the applicable provisions of this title would not prevent reasonable use of the property; and
3. The conditions creating the hardship were the result of previous actions by the applicant.

Based on the foregoing findings of facts, and conclusions of law, the Department – the applicant has not met all of the requirements to the granting of the subject variance. Therefore, the staff recommends DENIAL of the subject variance.

In consideration of the foregoing, the Department recommends that the Board of Variance and Appeals adopt the staff's recommendation – I'm sorry, Department's staff and recommendation reports prepared for the August 11, 2011 meeting, and authorize the Planning Director to transmit said findings of facts, conclusion of law, and decision and order on behalf of the Board of Variance and Appeals.

Vice-Chairman Tanner: Does the applicant have any comments or discussion on the staff report?

Mr. Schober: Other than we don't agree. We believe that we, again, are being unfairly held accountable for something that I think there was poor management by the County on reviewing permits. Given that timeframe, we're not the only victim here. There's many other Launiupoko homeowners, as with the utility walls that have been previously ruled upon. This is all being wrapped up together. And so I feel it's unfair, and certainly not in the spirit of community to be legalistic about the rules when there's no benefit to the community on having us go to the extraordinary expense to reduce a column that was not intentionally trying to be outside of the scope of the County's rules. So, I would urge the Board to consider that and award the variance.

Vice-Chairman Tanner: Thank you. Any discussion from the Board Members regarding the staff's recommendation?

Mr. Castro: Well, I'm just curious. When the permit process, you know, you have to run an electrical all the way down to the – what is that? . . . (inaudible) . . . ? So wasn't that inclusive?

Ms. Kapua`ala: I'll go ahead and read off what's this says as far as electrical. Actually, I can bring it up. Hold on one moment. This is the first farm dwelling's electrical permit. Not sure if it will be the one linked to this specific electrical work for your gate structure. And I don't understand it, but what it says here in the scope is that it's an underground service, 1PH, 3W, 120/240 volts to 300A, one foot or not over 100A, two feet or over 100 to 200A. Is that amps, Mr. Shimabuku?

Mr. Shimabuku: Yeah, correct.

Ms. Kapua`ala: Thank you. One foot or over 200-400A; 5,217 square feet; two motor not over 1HP; two AC control wiring; one meter only allowed for this dwelling. Maybe Mr. Shimabuku can enlighten us on this language.

Mr. Shimabuku: Yeah, that's – Mr. Chair, pretty much, that's all the normal information on a permit. I do notice that there is two motors not over one horse power, also two AC control wiring. I guess it looks like there's two sets of air-conditioning units that would take care of that two motors not over that one horse power rating. So there's no indication of another motor for the gate at the entry.

Ms. Kapua`ala: The second electrical permit that was pulled apparently for the second farm dwelling: underground service, 1PH, 3W, 120 and 240 volt to 200A, one foot or over 100 to 200A, 1,154 square feet, one motor not over 1HP, AC control wiring, one meter only allowed for this dwelling.

Mr. Shimabuku: Again, typical language information. 1PH would indicate a single phase, 3W is a three wire, 120 to 240 volt, a 200-amp system, 1 foot or over a 100 amp to 200 amps. That'll cover

1,154 square feet of dwelling. Again, one motor over one horse power, which would in turn take care of the air-conditioning control wiring, so then there's only 1 meter that allowed for that specific dwelling. So again, there's no indication that there of permitting for another motor at the gate.

Ms. Kapua`ala: And the final electrical permit on the property: new swimming pool/spa, one receptacle, one switch, two fixtures, one motor not over 1HP, 3 motors not – 3 motors over 1HP to 3HP.

Mr. Shimabuku: Yeah, I would include that one motor to be for the pumps for the – circulate the water inside the pool. Again, no indication of motors for the gate.

Ms. Kapua`ala: Thank you, sir.

Vice-Chairman Tanner: Thank you, Ray. Now, I certainly have sympathies for a buyer that buys an existing property and finds out later that there are certain conditions that don't meet. And I would think that the buyer would certainly have recourse with the builder who assured him that those – that was the case; that everything did meet. And in fact, it not only didn't meet, it was, I think, a 136% outside the height limit far exceeding it, far exceeding virtually everything I saw in the neighborhood.

The Board has three strict criteria that it has to use to grant variances. We can't grant 'em based on, you know, it doesn't seem like a big deal, or other people have other issues maybe, or this is drawn into everything else. I don't believe that it is. I personally find it difficult to meet any one of the three criteria, let alone all three. That's just my comments on it.

Do we have any more discussion from the Board? Seeing no further discussion, do I have a motion from the Board?

Ms. Kapua`ala: Excuse me, Mr. Chair. The Department would like to enter into the record that should the Board grant the variance, a building permit should be required.

Vice-Chairman Tanner: I'm sorry, I didn't hear you.

Ms. Kapua`ala: Should the Board decide to grant the variance that the Department would like to impose the condition that a building permit be acquired.

Vice-Chairman Tanner: Thank you.

Mr. Castro: Mr. Schober, what was the cost again to come in compliance?

Mr. Schober: \$8,500.

Ms. Kapua`ala: Speak into the mike.

Mr. Schober: The cost to modify the gate would be \$8,500. Could I speak also that to the electrical permit? I can say that there are only three pool pumps, so there is a question there as to what that other one horse pump or the one horse motor would've been. So it's unclear, I think. That could

be the gate.

Vice-Chairman Tanner: Thank you.

Mr. Shimabuku: Mr. Chair? Mr. Chair, could we look into that situation, which was just mentioned in regards to the amount of motors and pumps for the pool? Trish, you had that information on the main dwelling.

Ms. Kapua`ala: This is the electrical permit for the first farm dwelling.

Mr. Shimabuku: So there it indicates, two motors not over one horse power and two air-conditioning control wiring. So normally, you have two AC units you have two motor connections. And I think on the cottage or the adjacent dwelling you showed one. Okay, one motor not over one horse power, 1 AC control wiring. Mr. Schober, can you explain your thoughts on that motor situation?

Mr. Schober: I believe there was one other screen she showed that showed the pool electrical. Where it says, "three motors over one horse power to three horse power," and just before that, it says, "one motor not over one horse power." That's the one that may be the gate because I only have three pumps, not four, not four motors. It's logical he would've combined those because it's an outside structure. It's not part of the house. So I can't say for sure, but that may be the gate motor.

Mr. Castro: Offhand, do you know what the size of the motor that operates the gate?

Mr. Schober: I'm sorry, I don't, but it wouldn't be more than one horse. It's not that big.

Mr. Shimabuku: Is there a Jacuzzi on the property?

Mr. Schober: There is, but it uses the same pumps. You can't run both. It's part of the pool.

Mr. Shimabuku: Trish, you can go back to that last one that you had on? Is there any more detail on this electrical permit? This particular one?

Ms. Kapua`ala: Pool bonding. The inspector was B. Fukuya. It doesn't look like he made any other notes in the system. This is the professional: Delta Electric, Incorporated, which has a C13 type license. These are permit fees. That's about it.

Mr. Shimabuku: Okay, thank you.

Vice-Chairman Tanner: So, Ray, you still don't see anything that would indicate wiring to the--?

Mr. Shimabuku: No.

Vice-Chairman Tanner: Okay.

Mr. Shimabuku: I don't see any.

Vice-Chairman Tanner: I know this is clearly difficult in that the applicant that we have before us is not the responsible party. Unfortunately, he bought into it, however. And I would still think that the responsible party would have some – still have some responsibility here. And maybe the applicant has some recourse. You know our job is with the property itself, and going forward to the next owner, and the next owner, and the next owner. I think it sets a dangerous precedence.

Looking at this, I do understand it's an attractive gate. There's no question about that. It's also by far the largest in the area. I'm just really surprised that the builder would not look a little closer, and be a little more careful to build something that large with no permit, and no consideration, and turn around and put that for sale to the public, and just walk away from it. Again, its difficult cause it's not of Mr. Schober's doing, but unfortunately, that's not part of the criteria that we get to consider. So at this point, I would ask again if we have a motion from the Board.

Ms. Jacqueline Haraguchi: I make a motion to deny.

Vice-Chairman Tanner: We have a motion to deny. Do we have a second?

Mr. Santiago: Second.

Vice-Chairman Tanner: Okay. We have a motion to deny by Francis and a second – I'm sorry, by Jackie and a second by Bart. Do we have any further discussion? Okay, at this time I'll call for a vote. For all those in favor, aye. For all those opposed?

It was moved by Ms. Haraguchi, seconded by Mr. Santiago, then

VOTED: To deny the application.

**(Assenting: J. Haraguchi, B. Santiago, R. Shimabuku, S. Castro,
R. Phillips.)**

(Excused: B. Vadla, P. DePonte, K. Tanaka.)

Vice-Chairman Tanner: And the motion is denied.

Ms. Kapua`ala: Variance is denied. The motion passed.

Vice-Chairman Tanner: **Sorry, the variance is denied. The motion passed.** Thank you.

D. DIRECTOR'S REPORT

Vice-Chairman Tanner: The next item on the agenda, the Director's report.

Ms. Kapua`ala: There are no updates to report of. In fact, we have a very light appeal load at this point. It's just ongoing appeals that have been going on for more than a year. The parties are working to settle, but no, no meetings have been scheduled.

E. NEXT MEETING DATE: August 25, 2011, Thursday

Vice-Chairman Tanner: Okay, the next meeting is scheduled for Thursday, August 25, 2011. And do I have a motion to adjourn?

Ms. Tremaine Balberdi: Mr. Chair, the minutes?

C. APPROVAL OF THE JULY 14, 2011 MEETING MINUTES

Vice-Chairman Tanner: The minutes. How did I miss that? Right there on the same line. Minutes. Has everybody had an opportunity to review the minutes from the last meeting? Do I have a motion to approve the minutes?

Mr. Shimabuku: I make a motion to approve the minutes.

Vice-Chairman Tanner: Second?

Ms. Haraguchi: Second.

Vice-Chairman Tanner: Second. All approved? Any opposed?

It was moved by Mr. Shimabuku, seconded by Ms. Haraguchi, then

VOTED: To approve the July 14, 2011 meeting minutes.

**(Assenting: R. Shimabuku, J. Haraguchi, B. Santiago, S. Castro,
R. Phillips.)**


(Excused: B. Vadla, P. DePonte, K. Tanaka.)

Vice-Chairman Tanner: **The minutes are now approved.**

F. ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 2:31 p.m.

Respectfully submitted by,



TREMAINE K. BALBERDI
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Members Present:

Rick Tanner, Vice-Chairman
Stephen Castro
Rachel Ball Phillips

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Ray Shimabuku
Bart Santiago
Jacqueline Haraguchi

Members Excused:

Kevin Tanaka, Chairman
Bernice Vadla
Patrick De Ponte

Others:

Francis Cerizo; Staff Planner, Department of Planning
Trisha Kapua`ala; Staff Planner, Department of Planning
James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel