

PURSUANT TO CHAPTERS 91 AND 92, PART I, HAWAII REVISED STATUTES, AS AMENDED; NOTICE IS HEREBY GIVEN OF A PUBLIC HEARING/MEETING OF THE MAUI COUNTY BOARD OF VARIANCES AND APPEALS (BVA)

Members: Howard S. K. Kihune (Chair), Raymond Sung (Vice-Chair), Chad Fukunaga, William Greig, Juanita Reyher-Colon, Max Kincaid Jr., Ralph Masuda, Jeffrey Borge, William Kamai

AGENDA

DATE: April 13, 2017

TIME: 1:30 p.m.

PLACE: Planning Department Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Hawaii

A. CALL TO ORDER

B. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered. Maximum time limits of at least three minutes may be established by the Board. More information on oral and written testimony can be found below.

C. INTRODUCTION OF NEW MEMBERS

1. Jeffrey Borge
2. William Kamai

D. ELECTION OF OFFICERS FOR 2017-2018 COMMISSION YEAR

1. Chairperson
2. Vice-Chairperson

E. ORIENTATION

1. Policy Against Discrimination (J. Takakura)
2. Role of the Board (D.Dias)
3. Variances (D. Dias)
4. Appeals (D. Dias)
5. Rules of Practice and Procedure for the Board of Variances and Appeals (R. Thomson)
6. Ethics (R. Thomson)
7. Sunshine Law (R. Thomson)
8. Maui County Charter (R. Thomson)
9. Chapter 91, Hawaii Revised Statutes (HRS), Administrative Procedure, (R. Thomson)
10. Chapter 92, HRS ,Public Agency Meetings and Records, (R. Thomson)

F. ADOPTION OF FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER (D&O)

1. Having voted on October 8, 2015, to approve the variance for United Auto Parts (BU 877279) (BVAV 2015/0015), the Board will consider and may adopt the draft Findings of Fact, Conclusions of Law and Decision and Order.

G. APPROVAL OF THE MARCH 24, 2016 BVA MEETING MINUTES

H. APPEALS (NON-PUBLIC HEARING ITEMS)

In deciding the following Appeals, which are contested cases pursuant to Chapter 91 HRS, the Board is exercising an adjudicatory function. Therefore, Pursuant to Section 92-6 (a)(2) Hawaii Revised Statutes, the following portion of the meeting is NOT a public hearing; and the Board is not required to allow the public to be present or to testify.

1. **CALVERT G. CHIPCHASE AND CHRISTOPHER T. GOODIN OF CADES SCHUTTE LLLP** representing **D AND S VENTURES, LLC** Appeal of the Planning Director's Notice of Violation (NOV 2014/0013) for the zipline activity within the County's Agricultural District without a Special Use permit pursuant to MCC §19.30A.060(H) for property located at 2065 Kauhikoa Road, Haiku, Maui, Hawaii; TMK (2) 2-7-012:086 (BVAA 2015/0002) (P. Critchlow)
 - a. Letter dated February 22, 2017 from Deputy Corporation Counsel Thomas Kolbe, requesting that the Board appoint a hearing officer.
 - b. The Board will consider the possible appointment of a Hearing Officer to preside over the above Appeal.
 - c. Pre-hearing conference.
2. **Kristin Holmes** appealing the Planning Director's non-renewal of a Short-Term Rental Home permit (STKM 2013/0015) for property located at 1627 South Alaniu Place, Kihei, Maui, Hawaii; TMK: (2) 3-9-011:046 (BVAA 2017/0001) (A. Cabais)
 - a. The Board will consider the possible appointment of a Hearing Officer to preside over the above Appeal.
 - b. Pre-hearing conference.

I. NEXT MEETING DATE: APRIL 27, 2017

J. ADJOURNMENT

AGENDA ITEMS ARE SUBJECT TO CANCELLATION.

AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE BOARD TO CONSULT WITH ITS ATTORNEY ON QUESTIONS AND ISSUES PERTAINING TO THE BOARD'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES AND LIABILITIES, PURSUANT TO SEC. 92-5 (a)(4), HRS.

DOCUMENTS ARE ON FILE WITH THE DEPARTMENT OF PLANNING. THE ADDRESS OF THE BOARD IS C/O DEPARTMENT OF PLANNING, ONE MAIN PLAZA, 2200 MAIN STREET, SUITE 315, WAILUKU, MAUI, HAWAII 96793.

ANY PETITION TO INTERVENE AS A FORMAL PARTY IN THE PROCEEDINGS BEFORE THE BOARD MUST CONFORM TO RULE 12-801-18, RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF VARIANCES

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AND APPEALS, AND BE FILED WITH THE BOARD AND SERVED UPON THE APPLICANT WITHIN A REASONABLE TIME BEFORE THE MEETING IN WHICH THE SUBJECT MATTER OF THE INTERVENTION IS TO BE HEARD. THE ADDRESS OF THE BOARD IS NOTED ABOVE.

ORAL OR WRITTEN TESTIMONY WILL BE RECEIVED ON ANY AGENDA ITEM SUBJECT TO THE PROVISIONS OF CHAPTER 92, HAWAII REVISED STATUTES AND THE BOARD'S RULES OF PRACTICE AND PROCEDURE, EXCEPT FOR CONTESTED CASES UNDER CHAPTER 91, HRS, AS NOTED ABOVE.

WRITTEN TESTIMONY AND FAXES SHOULD BE RECEIVED AT LEAST TWO (2) BUSINESS DAYS BEFORE THE MEETING TO ENSURE DISTRIBUTION TO THE BOARD. FIFTEEN (15) COPIES OF WRITTEN TESTIMONY ARE REQUESTED IF TESTIMONY IS PRESENTED IMMEDIATELY PRIOR TO OR AT THE MEETING.

THOSE PERSONS REQUESTING SPECIAL ACCOMMODATIONS DUE TO DISABILITIES, PLEASE CALL THE DEPARTMENT OF PLANNING AT 270-7735 (MAUI) OR 1-800-272-0117 (MOLOKAI) OR 1-800-272-0125 (LANAI) OR NOTIFY THE DEPARTMENT OF PLANNING IN WRITING AT ONE MAIN PLAZA, 2200 MAIN STREET, SUITE 315, WAILUKU, MAUI, HAWAII 96793 OR BY FAX NUMBER 270-7634 AT LEAST SIX (6) BUSINESS DAYS BEFORE THE SCHEDULED MEETING.

PLEASE NOTE: If any member of the Board is unable to attend the scheduled meeting, please contact the Department of Planning at least one day prior to the meeting date. Thank you for your cooperation.