

**BOARD OF VARIANCES AND APPEALS
REGULAR MEETING
July 9, 2015**

A. CALL TO ORDER

The regular meeting of the Board of Variances and Appeals (Board) was called to order by Chairman Abbott at approximately, 1:32 p.m., Thursday, July 9, 2015, 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 Abbott: The meeting of the Board of Variances and Appeals will come to order. It is approximately 1:32 p.m., let the record show we do have a quorum.

B. PUBLIC TESTIMONY

Chairman Abbott: As there's a lot of persons in the gallery wishing to provide testimony, if there's anyone in the gallery who wishes to provide testimony for the second item, you may speak now if you are unable to attend.

Mr. Scott Smentek: Hello everyone on the Board. Mr. Leslie Lau, the surveyor who came and did the topo survey on the Smentek property has been kind enough to show up today and wanted to provide a little testimony regarding the placement of the home on the lot and the layout of the lot and so and so forth. So please I'll give you Mr. Lau

Chairman Abbott: My question is, Sir, are you unable to be here for the actual presentation? Are you time constricted as to be here?

Mr. Leslie Lau: Yes. I've got about three different maps I have to show.

Chairman Abbott: Ok fine. Thank you very much. Please limit your testimony to three minutes if you possibly can.

Mr. Lau: Ok, my name is Leslie Lau. I'm a Licensed Surveyor and I surveyed the subject property. And based on what I found where the house is located now, that's the most optimum location for it to be on; because the rest of the property is lower. There's another flat area, if you look on the map that you have provided, there's another area that's kind of level but, it's lower than the street by about 15 feet.

If you were to build a house there, your roof level would be equal with the street level. And if you were to own that property, I don't think you would build a house in that section. For me, it's just common sense.

So, if you have any other questions, I can answer them.

Chairman Abbott: I don't think so, thank you very much. Any Board members have any questions? Thank you very much.

Mr. Lau: Ok.

C. PUBLIC HEARING

1. BEN LEE OF CLIFFORD PLANNING AND ARCHITECTURE, representing MAUI LAHAINA PARTNERS, OUTLETS OF MAUI 1 LLC (LESSEE) AND THE WEINBERG FOUNDATION, INC (OWNER), is applying for a variance from §19.36A.010, Maui County Code ("MCC") "Designated number of spaces". to allow the subject property to be classified under the use of "business building" with the parking ratio of "one parking space for every five hundred square feet of floor area" instead of being classified under the use of "shopping center" with the parking ratio of "one parking space for every two hundred square feet of floor area" for the existing and proposed building expansions for property located at 900 Front Street, Lahaina, Maui, Hawaii TMK (2) 4-5-002:009 (BVAV 2015/0009); (M. Balberdi).

Chairman Abbott: We'll continue on with the agenda. Will the staff please read the agenda and state the purpose of the application please?

Ms. Balberdi: *Reads item into record.* Unfortunately the applicant Ben Lee is not here, so we have Janine Clifford.

Chairman Abbott: Is there a presentation?

Ms. Balberdi: Yes, the applicant is doing it.

Chairman Abbott: Please step forward, speak into the microphone and state your name please.

Ms. Janine Clifford: My name is Janine Clifford, and I'm president of the Clifford Planning and Architecture and Ben is my associate and unfortunately he had a death in the family so I'm representing our company.

So, thank you very much Chairperson Abbott and members of the Board, we appreciate your time today to hear our request for a variance. We are here today on behalf of the Outlets of Maui and the Weinberg Foundation.

And as you know, this is the site plan of the end of Lahaina. On the south, is Front Street, the bottom of the site, to the right is Papalaua Street and to the left is Baker Street. And the big large white area on the bottom right hand corner is what exists today as what we call Phase 1 of The Outlets of Maui.

So here's what the center looks like today and I don't know if you remember, maybe a couple of years ago there have been several owners of the Lahaina Center as it was called before and all of them have gone through lots of hardship; and one could agree and have failed the attempts at creating a viable sort of anchor for the end of Lahaina.

So the Weinberg Foundation took property back and prior to The Outlets of Maui coming in, this is kind of what you saw. What they did is really kind and very nice, they boarded it all up and they painted it all over and tried to make the center look as nice as they possibly could. But if you remember, it was pretty deserted at that time. Here are some of the shops where they just covered it over with plywood and painted.

What we did is we really embraced the Lahaina Town Center Guidelines, the Historic Guidelines and when The Outlets of Maui took over; their intentions were to be good neighbors, fit in the community and to try to be a long term anchor for the entire Lahaina Front Street region. So they really embraced the Design Guidelines and we were told, "stick to them as true as you can, including the colors so that permeates the center."

We built parapet and extended the fronts out with these gabled ends and added trees and we saved all the big existing trees. And again, you know retail needs these wide alley ways but that doesn't mean you can't also have nice landscaping and The Outlets of Maui, they're very committed to art and architecture, so part of our budget was also set aside for art.

So this is what you see today at The Outlets of Maui. Very lively, there's always people there, well lit and we've restored the clock tower as well and tried to just be good neighbors and fit into the Lahaina theme.

The dotted area started in blue here is actually what we call Phase 1, so we didn't add in new buildings; it's 10 buildings in approximately 105,000 square foot of floor area and the big parking structure on the left.

This is what we're calling Phase 2. One of the things that The Outlets of Maui has realized is that they're kind of the magic hour for retail destination places. There's about 250,000 square feet of retail there and even with our proposed expansion, we come up about 50,000 square feet shy of that.

But the idea's really that we're not a standalone destination place. But we actually fit into the broader of Front Street and we're like if you want to say- - like the Macy's of Front Street or Neiman Marcus, or you know whatever the big anchor or Sears of Front Street. So it's really not necessary for us to get our density up that high. But if we can really be an anchor for all of Lahaina then we feel like we're part of the neighborhood and we're able to help rejuvenate not just ourselves but really drag the people walking along Front Street all the way to the end of Lahaina.

Our goal is to build 50,000 more square feet on what's dotted in red, which is the surface parking lot. Together this is what is Phase 1 and Phase 2 and as you can see, Phase 2 because of the very odd configuration of the Lahaina Shopping Center, we actually are only putting Phase 2, on less of what's a third of the property.

On the left is Phase 1 and 149,924 square feet or about 150,000 square feet as I said. And under the old guidelines we have 987 parking stalls. And Phase 2, which is approximately 51,000 square feet and we're proposing it in five buildings so we can keep that same sort of very low scale Lahaina appearance. We would remove 324 of those existing parking stalls.

This is our parking deck right now, it's always empty, it's always vacant. This is our existing surface parking stalls at 7:48a and as you see, on any given day, it's super under parked. There's less than a hundred cars in the entire parking structure and ground floor of 900 plus parking stalls. These were taken in February, I have other photos.

And this is kind of common, our underneath parking deck is also vacant. You would think it would be filled because it's covered parking. And the only people who usually park underneath are the actual store employees. It's mostly shop keepers and the like, because they want their car to be protected. Everybody else wants to closer to the stores.

So in total, under the old parking or the current parking guidelines which classifies us as a shopping center that envisions like a grocery store or a Longs Drugs or something that has high resident traffic, and convenience traffic we would have to provide 1,114 parking stalls; compared to the variance that we're requesting, which we would only provide about 602.

But even with removing on the bottom center portion 324 parking stalls, under the 1 per 500 square foot of a business center which is kind of our real uses, we would be 61 parking stalls over the required amount. So we still would be over parked if we just looked purely at the uses within the facility and sort of didn't classify us under shopping center if you will.

Again, we are 61 stalls over parked and then also, the other thing is we know that we service, and we are good neighbors and we try to service the broader community in Lahaina; and so one of the things that TOOM is offering is to provide valet services during public events. I don't know if any of you actually parked during public events. But TOOM does offer special parking for the public because they recognized that they're one of the largest parking lot and there's only one other parking lot that's about half the size in the community.

This is our layout for a valet parking, so we didn't just pull that number out of the sky. The red lines represent where we think we could park valet cars and we've been very conservative in our count to make sure it's a realistic approach to providing additional parking beyond what would be at 1 to 200 or excuse me 1 to 500. Again, if you look at the bottom two numbers, we're 61 stalls over parked at 1 to 500; and where we would be proposing to add valet service to that as well during public events and special events.

We also took other photographs just randomly just to assure everyone that we weren't going at peak times or best times but this happens to be sort of noon time. You can see its way less parked. Again, the parking decks . . . different days . . . the parking decks vacant- - always vacant. And underneath the building, even at lunch time. . . Not many cars.

So we believe that we face several hardships. The Outlets of Maui is in a very expensive rent district in Lahaina. The property is large in it itself; its 11 acres. Part of it is in the special design district and part of it is not. But because we sit on such a large parcel of land, we're being considered to be a shopping center just by virtue of our size, 2/3 of the lot thus is dedicated to parking and is deserted. So you know at the end of Lahaina, is this deserted parking lot if you will.

Compared to other shopping retail areas in Lahaina who don't have to provide parking; the burden of providing the majority of the parking area kind of rest onto our shoulders. Lahaina itself is a pedestrian environment. We all agree that Front Street is where all the action is and everybody's walking up and down, and in support of that, the visitor industry itself has recognized that and has provided shuttles from hotels . . . the tour groups do it, the cruise ships do it.

TOOM themselves have started their own private shuttle company; Shuttle Route. They carry 5,500 passenger trips a month. So since January till now, that's over 33,000 additional trips up and down Lahaina. Besides just their parking - - one of their stops is their facilities.

We don't believe that the variance would alter or impact the character of the neighborhood and I think especially with offering valet services during public events that would mitigate any of the public's concern about where would they park.

We also don't think we have a negative impact and in fact we think we sort of make the community a little bit better in that if we were to have to build those extra parking stalls, we would be coming in with a four story parking structure. Which would just tower over and overshadow the residential neighborhood next door.

Those are some of our logic and discussion. The other thing is. . . We're not really a full shopping center which is how the Zoning Department is classifying us. Again we don't have Times Supermarket, we never will, we don't have Longs Drugs and we don't have the footprint to support those kinds of large shopping functions. Our buildings are much smaller in foot printed area and they're spread out in smaller areas. We're really committed to this idea of pedestrian first and the walk ability and the permeability of our site so that we enhance the Lahaina special district.

One of the hardships we face is being able to compete with the other retailers in Lahaina, so we feel that this variance would sort of level the playing field if you will and make our- - give our retailers a fighting chance against some of the others for how much they charge for their products and the like. While still recognizing that we have to park and people who- - there is this tradition of knowing where to park in Lahaina.

One of the things that is a requirement of the variance was to make sure that we point out to you that we didn't make this hardship before we came in. So we are coming to you before we plan Phase 2 and before we come in with our construction documents to hear whatever comments that not only the variance committee has but the Planning staff as well.

We think that this added layer of the historic district being - - while we want to embrace it and we have embraced it does also create a hardship because part of our property sits in the special design district and some of our property . . . or the historic design district and some of it doesn't.

So we are requesting some relief between the way we're being classified from shopping center to a business district. And we really do fall under the business district use. We have retailers, we have a few restaurants that make up the very small minority and we are keeping that parking ratio of one to a hundred parking stalls per square foot. And we're just asking for relief on the classification of our retailers.

Some of the benefits, we are providing additional jobs. We estimate that there are 30 different stores that have opened in Phase 1, that's 648 new jobs that we have documented. And our additional expansion will bring another 200 jobs to just our site and this doesn't consider the additional construction boost and the like.

We believe we're supporting the economic development of the Lahaina region and not just ourselves. We are really interested in this pedestrian walk ability. We are enhancing the visitor industry in certain ways and really providing a different shopping opportunity for all of Maui itself. We are the only shopping outlet besides Waikale on Oahu. So we think of its not only servicing the tourist industry but also the local industry as well.

We also know that we'll be generating more tax revenues for the county and we are very supportive of special events. I don't know if you went to the Fourth of July event, but The Outlets of Maui provided – advertised freely, parking for the public who were going to the Fourth of July for \$10.00 for the evening and you didn't have to buy anything in the center.

With that, we respectfully request your consideration in providing us with a variance to allow Phase 2 to move forward. Attached to the back of this document is some clarification to how we arrived at our numbers because ours defer slightly from the Planning Department and Malia's aware of that. So if that's been included. And then behind it are letters in support of our variance request.

Do you have any questions for me?

Chairman Abbott: Thank you very much. Questions?

Mr. Raymond Sung: For staff or for the applicant?

Chairman Abbott: The applicant please.

Mr. Teddy Espeleta: That parking lot, isn't that paid parking?

Ms. Clifford: Yes. And actually it's several things. If you're a person visiting the center and you buy anything at any of the stores, you get two free hours and if you go to a restaurant you get four free hours. And the standard rate is if you just wanted to park there, they do allow public parking. It's \$2.00 for 30 minutes. But if you bought anything, it doesn't matter what you brought its two hours to free. And to support the employees, it's \$3.00 for 6 hours and \$5.00 for ten hours if you're an employee working at the center. Or you can also buy a monthly parking pass.

They also support the broader community. So they've gone out to other shop owners in the community and asked if they want to purchase parking. But any given day there's only maybe 50-90 parking stalls that are used by the public.

We think that they're pretty much in keeping- - their rates are in keeping with other parking lots in the area and actually one of the people here today is from Pro-Park to testify that we're not

sort of outside the box. In fact, I think our parking- -if you're there to shop at The Outlets is pretty reasonable.

Chairman Abbott: Thank you very much. Is there any other public testimony?

Mr. Howard Kihune: I've got a question Chair.

Chairman Abbott: Question please Howard.

Mr. Kihune: Janine, is there any one point or anytime that Ulalena or Quiznos maximized their parking arrangement they have with you?

Ms. Clifford: No they don't. They use some of it for part of the time. But they never fully park. And yes, that's a good point we also have parking agreements with other individuals . . . other companies that we by ordinance have to provide, or by formal agreement and Myth and Magic and Quiznos were never fully parked.

Mr. Kihune: But you would probably say that Ulalena probably utilizes it more in the evening then during the day right?

Ms. Clifford: Correct. And actually we think that we're most- - our busiest time is towards the evening and even with the show going on then what happens is people eat dinner, go to the show and then shop a little bit. Or in some combination of the three and that time our parking lot- - we're lucky if we get even close to a little bit over 100 at a time.

Chairman Abbott: At this point, I would like to ask if there are any letters of support or opposition that we don't have in our folder.

Ms. Balberdi: No, I believe you have them all.

Chairman Abbott: We have them all? Okay, thank you.

B. PUBLIC TESTIMONY (Continued...)

Chairman Abbott: I'll now open it to public testimony. Anybody wishing to speak? Thank you. Please identify yourself and speak into the microphone.

Mr. Tom Blackburn-Rodriguez: Thank you. Aloha Mr. Chairman and members of the Board of Variances and Appeals. My name is Tom Blackburn-Rodriguez and I'm speaking today representing Go Maui Incorporated. Go Maui is a non-profit agency that advocates for quality developments providing employment for our work force and important services to our community.

We are respectfully requesting your favorable consideration of the variance requested by Maui Lahaina Partners Outlets of Maui Project. Our President Alice Lee has also submitted written testimony requesting your approval of the variance requested.

Two years ago, the developer transformed what had become an eye sore to what is today a very nice retail mix for both residents and visitors.

And truth in testimony, I must say that since the renovation, I who had stayed away from this area wound up buying my wedding ring there. Wound up getting a wonderful Christmas present- a leather brief case and when I travel to Japan I bought everything I needed up there. So I can testify, as a resident this place has drawn and is getting a very very nice look to it.

The Phase 2 expansion is a welcome addition to the retail area. And Go Maui commends the developer for keeping the design style of Lahaina Town which we will understand when we look forward and back to the building.

The Outlets of Maui was originally permitted as a retail center with a parking ratio of one parking space for every 500 square feet of floor area. The retail center has mistakenly labeled a "Shopping Center", which will require one parking stall for every 200 feet of floor area. This would kill the project and could possibly lead to very ugly multi-story parking structure.

The existing two level parking structures will be large enough to accommodate the required parking if the County grants the variance. These small retail outlets and shops, will not only service the community with purchasing options, as I mentioned, but will also provide short-term construction employment for the area and long term service in retail job.

Thank you for your consideration and for the opportunity to testify before you today. Mahalo.

Chairman Abbott: Thank you very much. I have a question perhaps you can answer it for me. You mentioned the letter from Alice Lee and the copy I have in my hand says it's substantially different. Phase 2 is substantially from Phase 1 and the parking situation is not the same. So I'm just very curious as to why the difference?

Mr. Blackburn-Rodriquez: I think her testimony goes into more detail in the parking then mine did. And that was her intention, she would've been here to testify and answer but she had a previous commitment.

Chairman Abbott: Well, I can't question her on this particular issue. I'm just very concerned that everybody is fair and to the point and everybody gets a fair square. I'm just bringing this to your attention because it's a little ambiguous in its clarity- - let's put it that way.

Mr. Blackburn-Rodriquez: I appreciate the question, it is a good question. Unfortunately, because she's not here, I can't detail those specific answers to that question. But I do know she was focusing more on that particular issue.

Chairman Abbott: Thank you very much.

Mr. Blackburn-Rodriquez: Thank you.

Chairman Abbott: Any questions for the gentleman? No. I have a question- - may we open for staff?

Ms. Richelle Thomson: Let's get through public testimony first.

Chairman Abbott: Ok. Let's get through public testimony first before we ask the staff questions. Any other public testimony?

Ms. Nani Koa: Aloha everyone! My name is Nani Koa, and I am here in support of the parking variance for The Outlets of Maui also referred to as TOOM. So I'm the branch manager for Maui with Securitas Security. We provide the security services for TOOM.

Lived here for 15 years, originated from Oahu but call Maui my home; no plans on leaving. So I have direct oversight over this property TOOM, also knowledge of the former property which was Lahaina Center. Which for many years, it was without life and very untouched.

TOOM has done an amazing job to the improvement, the beautification, and made many necessary upgrades that we can all appreciate. I believe TOOM is a great addition that will safely and positively impact Lahaina as well as our island.

From the business point of view and what was already shared regarding the parking, the top level is never used; it's just completely empty. And also, regarding the entire parking . . . which on normal days is partially full. I can witness that because we provide the 24 hours, 7 days a week security.

Also, I've worked closely with the owners of TOOM prior to their birth of this wonderful facility and we continue to stay connected in communication with continuing improvements to this property. So I can truly say they are caring citizens that will continue to do their best that will provide benefits and opportunities for the Maui County. Not only taking Lahaina to another level but also taking the entire island to a greater expectation.

In closing, I believe and support this parking variance to be a great idea for the County of Maui and this I know will help to advance, equip and build the Maui Island to greater levels. Keeping jobs for employees . . . keeping jobs for the residents here- - local residents as well; and supporting their businesses.

We support a lot of- - this is a local place here, when I first heard of TOOM coming, for myself, I was excited because I no longer had to fly to Oahu and go to their Waikele Outlet. So it was a great deal and a big deal for me that we can travel go to and enjoy this wonderful shop.

Thank you very much and once again I'm here to support and I hope that you do also with this parking variance. Thank you.

Chairman Abbott: Thank you for your testimony. Next, state your name please.

Mr. Lee Donohue: Good afternoon Chair Abbott, other commissioners. My name is Lee Donohue. I'm the Director of Security for Securitas which is the 8th largest employer in the State of Hawaii; we employ nearly 3,000 security officers on all islands and in Guam.

Our experience has been in any community- - of course parking is a big issue and we all know that, more so in Lahaina with the shopping center. So, with the proposal that's now before you,

we believe it will only enhance the quality of shopping within the Lahaina area. Especially for those who - - you know I think sometimes we forget about those who are handicapped and really can't walk far distances, for whatever reason. I bet this offers an alternative for that person to move around. Also for the others who's in the general public at the shopping center.

We have been partners with The Outlets for the last 20 years. We have other shopping centers, not only Maui but also throughout the State. And we believe this is just going to enhance the quality of shopping within the Lahaina area.

We support this, we hope that you do and I stand open for any questions you may have.

Chairman Abbott: Thank you. Any questions for the gentleman? Thank you very much. I appreciate your time.

Mr. Donohue: Thank you.

Mr. Lance Santos: Hi, good afternoon! My name is Lance Santos and I'm with Pro Park. We're a local parking management company; we've got about 60 different locations throughout the State. And for the last 15 years, I've been the manager and I've overseen operations at the manager Front Street Parcel now known as The Outlets of Maui. During that entire 15 years the garage has been highly underutilized, it sits empty. Even now, with the capital improvements and the center coming in, the garage still sits empty. So there's more than adequate parking.

I think one of the key features here is the commitment the center has made by accommodations other than parking, for your tourists and locals with shuttles. From Westin to Roberts to their own TOOM shuttle as well as the public bus stop, which is right across the street. I mean these types of relationships lessen the need even for parking.

We're in support of this project because in the long run. . . I think it will benefit the community, opportunities and jobs. And we've already- - as you heard been in discussion with them about providing valet service for special events. Valet service is going to allow us to park in areas not designated for parking and utilize it for greater capacity, so that we can go above what is stripped and considered the regular parking stalls.

This is why we're supporting it and if anybody has any questions?

Chairman Abbott: Any questions for the gentleman? Thank you very much, I appreciate your testimony.

Mr. Bruce U`u: Aloha everyone and thank you for letting me testify. My name is Bruce U`u. I'm with the Hawaiian Regional Council of Carpenters also known as the Hawaii Carpenter's Union. I stand before you in support of the variance for the Lahaina Outlets Maui. They've been a good partner to us over the last few years in providing work for our members in Maui County, majority of them from the Lahaina area.

I was part of the- - in the process of the permitting portion of this project, when I sat of Vice-Chair of the Cultural Resources Commission. And I understand the variance part of it - -they're looking for a variance because it was mistakenly designated somewhat different. I always

looked at as common sense, where there is an overabundance of parking which to me is an eye sore in that area. I can compare to Kmart at times as I drive pass. Everybody park just by the door and every place else is empty. And this probably is double the problem of the scale of parking compared to Kmart.

I think at times we need to take the common sense approach and look at what's needed and what's not. And definitely for me it is an eye sore and I humbly ask you guys for support in this project.

Thank you for your guys' time. Aloha.

Chairman Abbott: Thank you. Pardon me for a moment; I need to talk to the counsel. Thank you. Any more testimony?

Mr. Gary Collins: Good afternoon Chairman and Members. My name is Gary Collins and I'm the Operations Manager for Roberts Hawaii here on Maui. Our company handles transportation that services the County of Maui and its schools, Kahului Airport, numerous resorts around the island and other various tours and chartered services.

I am here today on behalf of Roberts Hawaii in support of The Outlets of Maui's application for a parking variance. It's been over a year since Robert's Hawaii operated The Outlets of Maui, West Maui shopping shuttle, starting on May 16th of last year.

The center's goal was to reduce traffic on the road while providing easy, reliable and economic means for visitors and residents in the area. For a rate of \$2.00 per fare the shuttle runs from 10:00 in the morning till 10:00 in the evening, seven days a week. With stops at six West Maui Resort areas plus the Lahaina Harbor. The center covers all costs of running the shuttle.

Since its inception, ridership for the shuttle has suddenly grown to over 5,500 riders per month. The Outlets of Maui are considering a larger bus to accommodate the rising demand, and adding shuttles for any key events in Lahaina. With the shuttle servicing businesses, visitors, cruise passengers and residents from the area, The Outlets of Maui's parking lot, is and remains underutilized and nearly always empty.

We support The Outlets of Maui's sustainable efforts to provide transportation for the surrounding communities and support their requests for a parking variance for the center.

Thank you.

Chairman Abbott: Thank you very much. Questions? Thank you.

Mr. Dave Erdman: Good afternoon, aloha! Thank you Chair Abbott and Members of the Board of Variances and Appeals. My name is Dave Erdman. I'm the President and CEO of Pac Rim Marketing Group and PR Tech, based in Honolulu. I am the Chair of the retail tourism committee for the retail merchants of Hawaii. Today I'm here to personally testify in support of the variance requests for The Outlets of Maui; I've also provided a written testimony.

My background with the island of Maui and Maui County has been in supporting, enhancing and diversifying our tourism industry. I first started my career at the Maui Intercontinental Hotel, in Wailea after I graduated from the University of Hawaii with a degree in Asian Studies and Travel Industry Management. My focus for Wailea and The Intercontinental Maui was helping them to build the Japanese traveler market. I later worked for . . . in the hospitality industry helping and supporting condominiums and hotels with their visitor industry business in Maui.

I founded my company Pac Rim Marketing Group 25 years ago with a focus on enhancing Asian International traveler business to the State of Hawaii. But in particularly working closely with the Maui Visitors Bureau. I was engaged with all of your past and present Mayor's in assisting them and facilitating meetings and conversations in Japan and Asia to enhance our visitor industry and connected industries to the visitor industry.

With the Maui Visitors Bureau I helped with a campaign called Romance Me Maui, which was a campaign to help the wedding market. Maui for Life which was a sustainability campaign, which was focused on health and wellness; and also Malama Maui, the concept of promoting our local food products to our visitors.

We were also in charge of the Maui Marathon for over 10 years and created a shop Maui collaborative campaign with all the shopping centers on Maui and we included small stores and shops in upcountry Maui as well as Kihei and in Lahaina.

All the programs that I've been working on have been to proactively capture the desire and interest of east bound visitors for Maui and Maui County. Today, we continue to support The Outlets of Maui's marketing team; and in doing so to work closer than ever with this important growing emerging markets from Japan, China and Korea.

I also work- - our company also works closely with the hotel industry. One of our key partners is the Starwood Hotels in Kaanapali as well as classic resorts in Kaanapali. We together see The Outlets of Maui as a key partner and amenity for the hotels, for the Asian travelers. As they are looking and desiring for American made products and outlet shopping on this island, it enhances their experience. We also work closely with the island of Lana`i and work with the Four Seasons and The Outlets of Maui is an asset to the visitors who come on day trips and will be coming on day trips from the island of Lana`i.

The Outlets of Maui is critically important to the overall islands endeavors to continue to create and sustain a world class visitor destination here. And what we really like about The Outlets of Maui is that it truly embraces a sense of the location and the cultural aspects of that important location in Lahaina.

Shopping is still very high on Asian traveler's' interests. Of course they're interested in all the other unique aspects of our island here on Maui. But shopping is an important part to their destination decision making process and we feel that Outlets of Maui is offering a new alternative for shopping here on this island. And it helps the island of Maui to be globally competitive in particular in our emerging Asian markets.

Let's see. I also feel it's important that our residents are shopping at The Outlets of Maui, because when visitors ask the workers and the properties where do you shop and they say "The

Outlets of Maui.” It means it’s a place where our local residents shop and the visitors want to shop there too.

I believe that this expansion . . . the potential expansion with a greater collection of stores and restaurants can only enhance our visitor industry overall for Maui. But also enhance the Lahaina contribution to our visitor’s experience.

I’ve been fortunate to know the development team at The Outlets of Maui through other projects for over 25 years. And I’ll just have to say that it’s - - I am really amazed at the creativity in terms of working. Particularly in this case with a project that was nearly dead and reviving it and keeping it within the cultural feeling that we want to have and the Historic Guidelines that they have.

They always have integrity in the work that they do and exceed the high standards that are given to them. I’ve seen their vision and I’ve enjoyed watching their vision come alive. They’re really very trend-setting in terms of how they’ve addressed architectural elements as well as their landscape design for all their projects.

In summary, I’d just like to say that for the next round of enhancements and sustainable initiatives that are potentially in the wings here; pass the first phase we are really excited to support this endeavor and I ask humbly for your support of the variance.

Thank you very much.

Chairman Abbott: Thank you Mr. Erdman. Any questions?

Mr. Erdaman: Thank you.

Chairman Abbott: Any further public testimony? Your name please sir?

Mr. Bill Kamai: Good afternoon Chair Abbott and Members of the Board of Variances and Appeals. My name is Bill Kamai. I am a service representative for the Hawaii Regional Council of Carpenters formerly known as the Hawaii Carpenters Union. I’d like to ask that you follow the Department’s recommendations and approve this variance from County Code 19.36A-.010 the parking requirements.

As a former member of the Board of Variances and Appeals it was rare for us to have any recommendations from the Department that was favorable for the variance. Certainly no appeals but variances was rare during my time on the Board. I’d like to remind the Board that the three requirements for this variance, has been met per the recommendations from the Department.

I’d like to ask for your support. Thank you.

Chairman Abbott: Thank you. Thank you very much. Any further public testimony? If not, I’m going to close it. At this particular time, I’m going to change the agenda around a little bit and let’s start- - I’d like to start asking the Board or the staff for opinions and recommendations and answers or questions. Raymond?

Mr. Raymond Sung: Thank you. This is addressed mainly to staff but possibly also to Corporation Counsel. And as a preface, I'll just say my approach here is not as to the - whether the substance of what's being asked for in the variance should be granted or not. At least to me, it seems pretty clear cut for the importance of the Lahaina Outlets to the community on not only an economic level but also on a broader social level ... (inaudible)...

My approach here is really trying to figure out what exactly from a technical standpoint is being asked for in the variance and is that the right approach to accomplish what's being asked for? And by that I mean, is the variance request asking for The Lahaina Outlets to be reclassified as a business building rather than as a shopping center and sort of along for the ride is the issue of the number of parking spaces that are required for the project. Or is it that . . . that it's not asking really for a re-designation of the use of the property; but rather it's just asking for relief from the strict parking - - number of parking space requirements.

And the reason why I ask this is - - I'd like to understand whether there are any unintended consequences of adopting one approach verses the other approach in exactly what's being asked what this Board is granting, if it were to grant that. For all I know and I don't know, that's why I'm asking . . . are there other material benefits or a cost of being designated a business building rather than a shopping center? If that's what's being asked for.

My approach really is- - let's call a spade, a spade. To me, it may not be the same kind of shopping center as the Cannery mall that has a Safeway or the Times Supermarket area or the one with a Kmart. But to me it looks closer to a shopping center than a business building.

So, I'd like to have a better understanding from staff and maybe Corporation Counsel as to exactly what is being asked for here from this Board. Is it relief only on the parking stall numbers or are we being asked to allow for a redesignation of the project as a whole, as a business building? I think that just conceptually I have a harder time to consider that request without a better understanding of what it means to be a business building as oppose to a shopping center. Thank you.

Ms. Balberdi: Hi, Malia Balberdi from the Planning Department. The request of the applicant is just a reclassification for parking ratio purposes.

Mr. Sung: Only?

Ms. Balberdi: Only. Yes. Also, when talking with our Deputy Director, I was notified that the Planning Department is actually considering revisions to 19.36A of the Maui County Code which will eliminate the shopping center parking ratio of one per 200 square feet of floor area.

Mr. Sung: But for the time being, until those revisions- - if ever are implemented- - if the variance were granted as requested the Lahaina Outlets would be redesignated as a business building only for purposes of the number of parking stalls, in all other respect with ever that might be, there's still a shopping center. Is that correct?

Ms. Balberdi: Yes. Just for their parking ratio.

Mr. Sung: Ok. And is that acceptable with the applicant? I just want to make that clarification.

Ms. Clifford: Yes.

Mr. Sung: Thank you.

Chairman Abbott: I have a question, going back to the staff's report here. I'm a little bit confused as to the definitions that were provided to us on the Board here. One-a building verses a shopping center. I understand that the buildings means any structure built for support, shelter, housing, occupancy, storage or enclosure of person's animals or properties of any kind. It doesn't say anything about retail space.

Ms. Balberdi: That is correct. We actually don't have a definition for business building, like how we do for the shopping center parking ratio.

Chairman Abbott: I understand that and I'm just questioning are these buildings that are going to be built used for retail sales? Or if they're going to call them business buildings?

Ms. Clifford: Yes, it'll be retail sales, there's some office and there's also a restaurant.

Chairman Abbott: Because that really throws a ... (inaudible)... to me into the ratio of parking spaces. Because let's face it, retail spaces require more space than does a building offices upstairs over another building. I just want to make sure that we're on the right place on the right at the right track because it's a little ambiguous now as to what we're really trying to do.

Raymond?

Mr. Sung: Right and I'll sort of follow up on Chairman Abbott's comments. Again, trying to get to the bottom of what are we calling this and why are we calling it. If in fact, what we're really doing is listening to Lahaina Outlet asking for a reduction in the number of parking stalls that needs to be - - to maintain on the premises.

If it were to go forward with Phase 2, let's call a spade a spade and just re-word the application for a variance to specifically that purpose. I feel very uncomfortable even if it's for a limited purpose, to call a shopping center something that's not a shopping center when at least to me, it clearly is still a shopping center.

And obviously you don't have a Safeway or a Foodland or Times right now, but that could change. And if it did change, now all of a sudden we're stuck because you've got a higher volume kind of enterprise on the premises and not the right number of parking spaces to show for it.

So, if you're going to be a shopping center instead of a business building - - and now we hear that's not even defined. . . I wouldn't mind having the variance reworded to be asking for just a lower number of parking spaces so long as the current anticipated use does not change.

But I'm again . . . it just rubs me the wrong way as far as the way I approach a problem to call a shopping center something other than a shopping center- - when it is.

Thank you.

Chairman Abbott: Any other questions? Richelle, please.

Ms. Thomson: Thank you. I think that your point is well taken and that it's a fairly easy modification as far as how you would word the granting of the variance. It's granting of the variance from the parking requirements related to the shopping center. So, in essence you would be allowing one for every 500 as it relates to the present use and the planned use as presented by the applicant.

Mr. Kihune: Question Mr. Chair?

Chairman Abbott: Yes.

Mr. Kihune: As they go forward, and say hypothetically at some point they decide they want to put a shopping- - Foodland or Times or whatever may be into the complex . . . through Planning, that would trigger them to go back- - come back enough to adhere to whatever the codes are for adding a shopping or a store like that, correct?

Ms. Thomson: Could you repeat that?

Mr. Kihune: Well does that exempt them from that total? It does?

Mrs. Carolyn Cortez: Yes. Carolyn Cortez here with Planning, I believe that the variance, if you grant it . . . it's not specific to the Lessee or the Company that comes in. It's for the entire Outlets of Maui. That is my understanding. And we would-- - if Times or Foodland came in, we wouldn't apply the one per 200.

Ms. Thomson: And maybe this is for discussion with the Department. If they granted the variance conditioned upon no increase in density or use as to beyond what's been presented. So any increase would result in them having to come back. Either for a variance if necessary . . . a further variance.

What do you think of conditioning the variance that way?

Mrs. Cortez: I believe that would be difficult because the lessee- - all the tenant spaces I believe are not yet occupied. And then also they are planning to add I think 15,000 square feet of retail space or building space that they will come in for.

Is that correct?

Ms. Clifford: Yea. We have like a small little area that originally we were going to try to make it open space. But by the time we had completed our paper work it was too far along to just add that extra 15,000 square feet. So, we were going to adjust it during the construction document phase and report back and try to mitigate that. So it's 51 plus 15 would be the total.

Mr. Sung: Just as a clarification, I think that the concern for the hypothetical situation touched upon in the discussion so far is let's say that we were to allow Lahaina Outlets to lower the number of required parking spaces and this is with the expectation and maybe as a condition that the current uses as anticipated uses as presented to this Board state and place. That's fine, and then what if becomes- - well what if they do put in a Foodland or a Times or a higher traffic, higher use type of Enterprise that would generate a lot more car traffic; and therefore the need for parking.

We would think that hopefully we should be able to say, "Well at that point in time, you can't bring in that higher use." Like a Times or a Safeway, unless and until you figure out the parking situation and then you come back to us.

But, are you saying Carolyn is that's not possible?

Mrs. Cortez: What I'm say is that the variance as it is worded now, is that they would want to no longer fall under the ratio of shopping center, one per 200; and they want to be considered a business building, one per 500. So anything that is built or any tenants that we are going to be calculating at one per 500.

Mr. Sung: Right. So as a clarification Carolyn, right now we are considering basically tearing up the wording of this current variance request and rewording it as Richelle had very simply and efficiently stated it. As basically we're not talking about reclassifying as a business building but we're talking purely about they are what they are currently, and we're just going to lower the number of required parking spaces applicable as a requirement subject to their sticking with the current uses and the anticipated uses as presented to us with no changes.

And with the understanding that if they were to - - in the future want to increase the use. . . I don't know if that's the right word . . . but adopt uses for the property that would involve higher vehicular traffic and therefore a greater need of parking stalls; that they'd have to come back to the Planning Department and/or the Board of Variances, on top of that. But, they can't just basically put in Times or a Safeway after this conditional variance is put in place.

Mrs. Cortez: Ok but then. . . I guess then the Board needs to determine what use constitutes higher traffic. Is it going to be Foodland, Times, grocery stores, Wal-Mart, Costco. . . ? And also, I believe that the tenant spaces that exist now are not all fully occupied. So when you say, as it exists now . . . I mean it would be difficult I think for the Department to qualify what the Board feels constitutes a higher use without being specific.

Chairman Abbott: Howard?

Mr. Kihune: I've got a question for the applicant. Janine, do you have any ideas who are the possible new tenants for the additional space that you're bringing in?

Ms. Clifford: Yes. We have been in discussion with a couple of restaurant operators. . . I can't say their names. . .

Ms. Clifford: But whenever we do the parking calculations we're very aware that a restaurant is its own animal. And we use one per 100. So even with the request we're asking for, we have over 60 something additional parking stalls. So we're kind of using that as the cushion to absorb the use that's already there now, which is restaurants, if we add one or two more restaurants.

We're not trying to turn ourselves into a food court or anything like that, because that's not what Lahaina needs. And we're all aware of that. The other uses will be additional retailers. So the worth of an outlet center is to locate all the retailers together, who are all offering the same discounted prices. So there isn't any value in bringing in Times or anybody like that, because the anticipated clientele are looking to shop at a discounted - -or perceived- - they're looking for a shopping experience. So those are really our target market, are additional retailers who fit that profile . . . restaurant, tours that fit that profile as well.

And maybe some office space but not much and they usually relate to like Wyndham who's timeshare. You know they're looking to have a place where if they do manage to get a sell, they can immediately close the sell. Things like that, but not Longs or Times. And we don't really have a footprint, the biggest and the only sort of anywhere remotely close to that we get is ABC who's there already. And they're actually wanting us . . . a footprint that fits that sort of clientele and they're not looking to create a big shopping - - it's really a convenience facility.

Mr. Kihune: I think it would be at a disadvantage for the shopping center if you were to add a Times or Foodland or whatever you may call it, because then what you'll do is you departmentalize the project itself and create more issues for those who wouldn't want to come for the true shopping experience.

Ms. Clifford: Right. Correct. And we're putting on a great effort into making this a shopping experience. So for example, we are providing a drive thru facility and parking of the buses-the tour buses on property, so that we don't create more of a traffic issue in Lahaina. And when the guests gets off, the experience starts when the door opens verses they get off on the streets somewhere, they have to cross the street- - so you know the effort and the emphasis is on breaking the buildings up, breaking the massing down to meet Lahaina's current look and then providing that shopping experience from moment one, including the parking structure.

For residence as well . . . Where are the bathrooms? Are they great bathrooms? Can you get there easily? If you're going to show, are you going to be able to walk through retail, get to a restaurant and then walk through a well-lighted facility to a parking area?

So the focus is more that way verses - - we did have a discussion about whether or not we should request the change to what we're really being considered. We did have that discussion. But there are parts of our property which is the hardship for us where we don't conform and we really do fall under a partial definition of a shopping center.

And we discussed that with staff at great length, because at first when I went in I said, "We're the only large piece of land like this in all of Lahaina." and the discussion was "Maybe we should

reclassify you.” But when you read the description of a shopping center and its square foot requirements all of a sudden, we have one foot in one door and one foot in the other door.

And so it seemed to make most sense that what we really are asking for is relief from the parking requirements, keep it simple. Right? We’re really just looking for that one narrow relief verses trying to say “Ok yeah, are you really a shopping center or are you not a shopping center?”

So that was kind of the discussion and it was originally conceived as a business center, it was always the Lahaina Business Center.

Mr. Kihune: I think the additional information of valet parking I think would be advantageous for the project. But I also commend your owners for sticking to their plan and thinking this more of a destination as an outlet- - a true outlet mall.

So, thank you.

Ms. Clifford: Thank you.

Chairman Abbott: For my own information, I’m curious, are any of the buildings that are proposed? Have they applied for building permits?

Ms. Clifford: No, we’re in the planning stage.

Chairman Abbott: Ok.

Ms. Clifford: So we haven’t started construction documents. We haven’t even- - except for showing those 5 footprints of where we think it might go and the ideas that we try to keep the same look, the same feel, the same small divided shops, this is it. We’ve stopped work until we hear your comments and we take into consideration the Planning Department’s concerns, and the administration’s concerns, and your concerns as well.

Chairman Abbott: The reason I’m asking is I’m curious as to what the Planning Department’s theory- - for lack of a better word- - of a building that is multi-use in this particular type of jurisdiction or area. Whether you have a retail store on the bottom and offices above, do different requirements come forth for parking when it’s in the same building? Or is it one lump sum? I’m just trying to make sure that we really know what we are here.

Ms. Balberdi: Yes, that is correct. When we- - normally- -if we do a certificate of occupancy inspection, if there’s an office on the top and a retail space on the bottom, they both require different parking. So the number would be different.

Chairman Abbott: I’m just curious as to . . . is there a median of decreasing or increasing or changing the request in the event of office space verses retail space; should we allow a little bit more . . .(inaudible)... on the variance or keep it the way it is. I’m just really very curious. Richelle?

Ms. Thomson: The variance for the application is for a specific number. So they're asking you for a one and 500.

Chairman Abbott: Thank you.

Mr. Kihune: Another question for the applicant. Is the intent for the new buildings to be one-story or is it to plan on having office space upstairs?

Ms. Clifford: The intention is that they'll all be one-story. So, we're really trying to adhere to the Lahaina Historic District, and as you know retail on the second floor is really though.

Mr. Kihune: Right.

Ms. Clifford: Also, because we chose a series of small building footprints in order to meet ADA requirements that would mean that we would have to be putting in quite a few elevators. And actually we are upgrading the parking structure to meet ADA requirements and the like.

So, we're really trying to really think through and embrace the real intention of the Historic District while really anticipating that this is a retail center with some restaurants and a little bit of office space, but not much. So we're anticipating all one-story structures.

Mr. Kihune: Thank you.

Chairman Abbott: Yes, please staff?

Mrs. Cortez: Mr. Chair and Member Sung, I'm double checking with our Plans Examiner that does the parking ratios. She's double checking. But I believe that if just a standalone Foodland or Times or Safeway - - so not a multi tenanted lot or shopping center; I believe the parking ratio would normally be one per 500 but I'm just double checking on that. And I'm going to double check also Wal-Mart too.

But I believe, because when you look at 19.36A our parking code, we don't have a definition for retail business. It's business building, which is one per 500.

Chairman Abbott: Thank you, appreciate it. Any other questions? May we have the staff's recommendation please?

Ms. Balberdi: The Department has concluded that the applicant has met all of their requirements for the granting of the subject variance.

Chairman Abbott: Do we have any further questions? Raymond?

Mr. Sung: The question is procedural. Are we going to proceed with the wording of the variance request as presented in the application or are we going to try to narrow the scope of the variance being considered to something more like what Corporation Counsel has just suggested to really talk about the number of spaces and not really get at the classification of the use of the property as a building business verses a shopping center.

Ms. Thomson: That would be at the Board's pleasure which route you want to go. You would simply - - if you wanted to go the route that you're describing, make your motion to adopt the staff's report and recommendations with a modification at the variance is to the number of parking stalls required for this specific parcel, the one and 500. And we would make it clear in the Decision and Order that it doesn't change the definition of the property or the use.

Chairman Abbott: Raymond?

Mr. Sung: I would so make a motion as outlined by Corporation Counsel Thomson and adopt the staff's report recommendations but expressly and explicitly change the language of the variance to make clear that we are - - that we would be solely limiting the changes to the number of required parking spaces. And leaving untouched any classification of the property, the Lahaina Outlets as a shopping center and not changing it to a business building.

That would be my motion.

Chairman Abbott: Ok. We have motion, do we have a second?

Ms. Juanita Reyher-Colon: Second.

Chairman Abbott: We have a second: Any discussion?

Mr. Kihune: Help me understand that again. We want to what now?

Mr. Sung: So we're going to call a spade a spade. It sounds to me like all they want is relief from the number of parking spaces.

Mr. Kihune: Correct.

Mr. Sung: So that's what I think we're saying which is you get relief on the number of required parking spaces to the smaller number. But we're leaving it untouched. So we're not going to say whether you're a business building instead of a shopping center.

Mr. Kihune: So we're leaving that untouched?

Mr. Sung: Right. Whatever they are, they are. We're not changing it. We're only changing the number of parking spaces that are applicable to this project. That would be my motion.

Mr. Kihune: Well, it makes sense what Malia had mentioned too, is if the Planning Department decides at some point to re-designate that, then that would be up to the Planning Department anyway.

Chairman Abbott: Ok, we have a motion, we have second. Any further discussion? I'll call for a vote. All those in favor say "Aye."

Member: "Aye."

Chairman Abbott: Any opposed? The **motion is carried, the variance is granted**. Thank you very much.

Ms. Clifford: Thank you very much for your time: We appreciate it and thank you for the Planning Staff's support. Appreciate that as well. Thank you everyone.

It was moved by Mr. Sung seconded by Mrs. Reyher-Colon,

VOTED: Motion to approve variance request as outlined by Corporation Counsel and noted in Staff's recommendation and staff report.

(Assenting: P. DePonte, T. Espeleta, H. Kihune, W. Greig, R. Sung. J. Reyher-Colon)

(Excused: C. Fukunaga, M. Kincaid)

Chairman Abbott: I'm going to call a five minute recess.

Recess: 2:45p-2:58p

D. UNFINISHED BUSINESS

1. SCOTT A. SMENTEK AND MICHELLE R. SMENTEK applying for a variance from §19.29.020, Maui County Code (MCC), "District Standards" to allow 1) a portion of the 230f square foot unpermitted dwelling addition to remain between 12.2 feet and 8.3 feet from the side property line, 2) to allow a 60 square foot unpermitted dwelli9ng addition that is used as storage to remain between 6.12 feet and 6.64 feet from the side property line, and 3) to allow a 510 square foot unpermitted storage structure to remain at 16 feet from the front property line when a 15 foot front yard setback is required for property located at 3160 Akala Drive, Kihei, Maui Hawaii 96753 (BVAV 2015/0010)

Chairman Abbott: Ok. We have- - this is a recall or a revisit thank you very much. As a couple of the people were not here, I think we should have Malia read the item into the agenda for safety purposes.

Ms. Balberdi: *Reads item into record.*

Chairman Abbott: Thank you. You're already at the microphone, so would you state your name?

Mr. Scott Smentek: Yes thank you Mr. Abbott and Members of the Board for hearing my testimony today and application for this variance. My name is Scott Smentek I live at 31 Akala Drive in Kihei, Hawaii. Just wanted to talk story for a moment and tell you a little bit about myself.

Chairman Abbott: May I ask - - are you willing to waive the reading of the staff report?

Mr. Smentek: Yes, absolutely.

Chairman Abbott: Ok.

Mr. Smentek: At any rate, just wanted to let you folks know, I am 55 years old, I am self-employed, I've had my own construction and residential clean up business for 29 years. I am married, I've been married for 30 years, and I have two children, a daughter 21 and a daughter 16. My wife and my two kids live with me in this house that we purchased two years ago.

We moved from- - I moved to Hawaii in 1978 after graduation and attended UH Hilo for six months, I lived on Big Island for a year and I lived on Oahu for a year. Then I went back to the mainland where I got married and had kids and started my business in 1986. We all chose to move back to Hawaii 2001, we were residents on the island of Oahu for 13 years and we sold our home over there and moved to Hawaii and I've been calling Maui our home for the last couple of years. And this is where we intend to retire.

What I did was I had a plan where I sold my home in Oahu and used a major portion of those profits, my life savings basically to put down on a home here in Maui. We really liked it- -we came over here and did research for two years looking for a place to live. We really liked the Kihei area and especially the Maui Meadows neighborhood.

However, I do believe there's a little bit of a stigma when someone mentions Maui Meadows, you tend to think, "Wow that guy's got lots of money for living in Maui Meadows," and actually that's not the case, in my case anyway. This particular home that I purchased was within in my reach it was I believe \$680,000; everything else in Maui Meadows was starting at about \$900,000 down on Akala Drive. And as you go up the hill it was up into the millions of dollars.

Well, I put down 80% of that, I put down \$522,000 and secured a loan for a \$150,000 which got me into the property. I actually went into the property with a plan, although it is a three quarters of an acre site, which is one of the bigger parcels in Maui Meadows. They all have to be a minimum of half an acre. This particular lot is- - I consider substandard in the neighborhood. In that it has a large degree of slope to it. So there's really only a specific little corner which was level where they could put a home.

What we've got is we've got a major drainage ditch; which is the biggest one in the whole subdivision coming right through the bottom of the property. There are three 36 inch pipes which are on Akala Drive, which drain through the lower portion of the property. You can see the map I provided with the yellow outline showing the drainage ditch. And that actually goes into an eight foot pipe which goes under the highway.

So, it is quite a large- - although it would be dry, it is a drainage ditch, which is a storm drain. And I've heard from neighbors who have been there that within the last year- - 10 years, they've seen water shooting out on Akala Drive 30 feet before they even touch the ground in the gully there.

It was not- -as Leslie Lau testified early, the person who came out and who I employed to do the topo survey. It was the only logical place to put the home, is where the home is where it sits. And the reason why it is so close to the neighbor's property on that side is because when it was constructed in 1971, the setback was with the Housing Code and it was at six feet at that time.

I just want to reiterate again, that I'm not a person of wealth okay? I've started my business over here; it's taken two years to build up a little bit of clientele. Last year I grossed \$40,000 dollars and at \$400 a load, that's a 100 loads in my 20 cubic yard dump truck that my wife and I load by hand. To add a two ton load average, that's 200 tons of material and I netted \$14,500 out of that.

So when I came here with my plan to purchase the property, I was told that I could get an After-The-Fact Permit; and two month after moving in, I moved in-in August, two month after moving in, I went to the Building Department and I applied for that After-The-Fact Permit. I also applied for a septic upgrade to bring the current cesspool up to a septic. I've got approval for that from the County. I was working with the County with the intention of getting my property legal so that I could build a 700 square foot ohana on the property and have some rental income so that my wife and I might be able to retire in five to 10 years.

Since then, I've been derailed on my project as far as trying to get an After-The-Fact Permit, with the setback issue. The setback issue arose through the Planning Department, when the plans were being reviewed. And the conflict that I have with the Planning Department, is that they're saying that I have to abide by today's standards and that the current standard is a 15 foot side yard setback. However, when the property was remodeled in 2006, it was done without a permit, and I understand that. But that's why I'm going for the After-The-Fact Permit.

But the County's telling me that since it wasn't permitted that I have to conform to today's standards and meet that 15 foot setback. They would require me to tear down a third of the existing structure. And once again, it's a two bedroom, one bath home. It's 1,300 square feet approximately and four people are sharing it right now.

The code changed in 2008. It was never my intention; I'm not coming to the Board of Variances and asking for a variance because I want to push that side of the house all the way to a six foot setback. All I'm trying to do is leave that whole side of the house the same as it is right now. And leave that alone and move forward with the After-The-Fact Permit.

With the After-The-Fact Permit, I'm not going to drag my feet and waste any time on it. I've already wasted nearly two years on trying to get this project. It's caused a great deal of emotional stress and a great deal of financial stress as far as trying to come up with the monies to deal with all these variance issues. I've spent several thousand dollars trying to get a variance when all I'm really trying to do in the first place is get my property legal. I want to pay the proper amount of taxes. If I get my property legal my taxes will go up, I've realized that. If I put in an ohana, my taxes will go up, I realize that as well. But that's going to benefit the County of Maui.

I do have a letter from my closest neighbor who runs a business, it's the Pineapple Inn, it's from a Mr. Mark Warner and he says here that it's not going to affect them at all. That they would approve for me to get the variance. And I ask the Board today, where's everybody out here who's opposing me getting the variance? I put out letters to Alexander and Baldwin, I put out letters to all my neighbors and there's no one in opposition. The only one opposing me getting this variance is the Planning Department.

And it's really a shame because the amount of savings that I have is limited. I had just enough to - - when I sold my home to move over here, I had just enough to get my house permitted and build a cottage. Because I've been sidetracked-derailed basically on pursuing this After-The-Fact Permit, I haven't been able to put a cottage up, I've had to go into my savings for two years and use up about \$40,000 which was set aside in order to make the improvements on the home that I've got right now. If I keep going in this direction, I just want you folks to know that the decision that you make today, is going to have a profound effect on not only my wife and I's life but on my kid's life and their kids and so on and so forth.

At this point, if I were to get the variance, I'm not going to waste any time working with the Building Department. I've already got bids for the septic, I'm ready to move forward and have had all the contractors come through the house, the inspectors, bringing the place up to code. It was my intention all along to bring the place up to code, get it permitted and move forward with this cottage.

I gotta keep hammering in there that the reason for the request for the variance is so that I can get around this- - I'm trying to get around this issue that the Planning Department is saying, "No, the improvements were done in 2006 without a permit, so we're not going to give you an After-The-Fact Permit until you tear down the part of the house that was added on without the permit."

To me- - I don't know, it just seems like a backwards approach. As I mentioned in the previous meeting, the cottage sits six feet or more from the property line right now, the original cottage that was built. There's a small portion of the house, if we look at this from the 2006, pre-2008 perspective, when the Housing Code was six feet. The variance that I would be asking for is six inches by four feet. That's how much the corner of the house is encroaching on the neighbor's property, six inches by four feet. Okay?

So it's a very manini amount if we look at this from the 2008 perspective. And may I remind you the actual remodel happened in 2006. So at that time, although ... (inaudible)... I agree, they didn't pull a building permit that was a bad deal. But they did place the house within the setback except for this corner. Maybe the reason for that is-is it's not a rectangular - perfectly square lot. It actually curves up a little bit, so I caught that corner of the house and the remodeler at the time did not catch that.

So basically, I'm really coming to you folks, you're my last hope of moving forward with this project. If I don't get the variance, I have two choices; I can tear down a third of the house and live in a substandard dwelling. There's nowhere else on the lot where I can build another house. The lot doesn't accommodate for that. The topo survey obviously shows it's about a 30 foot drop.

They've explained to me that there were no permits required to - - the permits weren't pulled to do the addition they did. But I'd have to pull permits in order to - - I wouldn't have to pull more permits to do the demolition on what they did, but of course I'd have to pull the permits and higher contractors to at least close the house back up there for bugs and rodents and whatever. So that we can actually dwell in what was left.

But at that point, I won't have the funds to put in a septic tank. I won't have the funds to build a cottage. And quite frankly, I've worked in ... (inaudible)... places in 29 years and your decision

today is going to affect my financial future and determine whether I'm going to be able to retire in five or ten years, or if I'm going to be greeting you at Wal-Mart when I'm 80. And it's no laughing matter; it's very-very serious matter what's going on here.

I gotta reiterate again, I was not turned in by a disgruntled neighbor; I was not caught in the middle of doing this addition illegally without permits myself. I went in voluntarily to the County to try to rectify the current situation what it is, which is a non-permitted dwelling.

So I would humbly ask the Board to consider everything you got. If you have any questions, please ask them. Otherwise I hope you will consider granting me the variance.

Chairman Abbott: Thank you very much. Questions from the Board for Mr. Smentek?

Mr. Patrick DePonte: Yeah, I have a question.

Chairman Abbott: Go ahead Pat.

Mr. DePonte: Picture two, interior and exterior of 60 square foot addition- -no excuse me, picture three, 510 square foot unpermitted storage structure. Let me ask you a question. Is this a storage or is this a rental?

Mr. Smentek: It's a storage. I have no rentals on the property.

Mr. DePonte: No rentals?

Mr. Smentek: No sir.

Mr. DePonte: Ok. And the picture of the second storage structure. It doesn't look like a storage. You have two chairs in the front of the storage area. It looks like somebody's living there.

Mr. Smentek: Well, it may appear that someone's living there. That's a nice place to sit in the afternoon when the trade winds are blowing; you get a breeze across the porch there.

Mr. DePonte: How far away from the main house?

Mr. Smentek: 60 feet approximately. And in order to get the After-The-Fact Permit, all of the storage structures are going to have to be permitted. And I intend to do that, and I intend to use them for storage. It's a - - I don't have additional pictures with me right now, but there's a lot of junk being stored in there right now because my kids are getting ready for a garage sell in a couple of weeks. So we're accumulating everything in there.

I mentioned earlier that I'm in the debris removal business. I've been in the debris removal business for 30 years and unfortunately what comes along with that is you end up collecting a lot of debris yourself. Because sometimes you come across stuff that you think is too good to throw away or that somebody else might want to buy or maybe you'll use someday. I'll be more than happy to show you those storage things, they're pretty packed full of junk.

But no, they're not rentals, the only rental that I'm trying to put on the property, is the legal ohana which I'm trying to get the After-The-Fact Permit for-for the house so that I can move forward with a legal permitted ohana.

Chairman Abbott: Other questions? Raymond?

Mr. Sung: Actually I have a question for Howard and maybe just to help refresh my memory. The reason why we are considering your matter Mr. Smentek today was because we deferred it from the last time because we were looking for. . . I think Howard had suggested that you provide some additional information. Was that just the topographical survey or was there other stuff that you were asking for too?

My recollection was that there might've been more things because my recollection before we suggested the deferral to today was that we were having- - or at least some of us were having difficulty in finding how you satisfy each of the three requirements. And the topographical survey certainly addresses in part or in whole requirement one. But I thought that you were going to provide additional information for how you satisfy all three requirements.

And that is a hurdle that you have the burden of showing in order for this Board to grant the variance. And I'm still struggling with how you actually meet all three of those requirements. I see the new topographical survey but I'd like to understand what else is there that you're bringing to the table.

Mr. Smentek: Ok. Sure. Well first I have to establish what's different about my lot. Is that correct? That's the first one. And the difference about my lot is the major drainage ditch that's on the property. Which dictates where I would put the house.

The second one on there if I'm not mistaken is would it create a hardship. The last time we met I was told, "Well, even if you tear down part of the house, you could just build another house somewhere else or use part of the other lot." Well, I'm trying to establish by topo survey that they- - and by the surveyor's statement, was that there is no other logical place to put a house on that entire lot.

Ok. And then the third one was - - am I responsible for creating the problem which I'm requesting the variance for. And even though the Planning Department agreed that I wasn't, you being of a law nature you were saying, "Well you assumed the shoes of the person of who you bought it from." Yes, and I assumed that. I didn't just assume it. I actually was led that way by my - - the person who sold me the home.

I have- - I'll just pass out a few more things here, I think I have enough to go around for everybody. These are the originals notes that I took when I purchasing the property from my realtor.

Chairman Abbott: Excuse me.

Mr. Smentek: Yes?

Ms. Thomson: You need to use the mic so we can record your testimony. So just go ahead and pass it out and then go back to the mic.

Mr. Kihune: While he's doing that. . . Ray, to answer your question, I was looking at it from the survey that we had prior. It didn't seem that it was as accurate as it is here, and I was looking at it from a standpoint that if this had gone in before 2008, I'd probably would've given the person a variance for the four inches. But, my thought was that if I did, that person was to increase that footprint, decrease that footprint, and then it would be subject to the new law. That was kind of what I was looking at.

Mr. Sung: Yeah. Right.

Mr. Kihune: So, I just wanted to see the fact that how really close this was to the property line. That's really what I wanted to know.

Mr. Smentek: And there was some question on that as well, because the original - - and we all got these packets last time, I had 21 of these made up at Kinko's, she asked me, "Did I want them stapled?" I said, "No I don't want them stapled." Well in this package, mine was included I didn't sleep probably for a week before the last minute, so I really wasn't with it when I came. But in the same package that I had with me that day, had the current plot map in it and the 20 that I turned into the County had the current plot map in it. But somehow by the time it got to you folks, it had the old plot map in it which threw everybody off. So I'm not sure exactly how that happened.

But the old plot map was showing dimensions of four foot one and so on and so forth. And the new plot map I thought it read six foot eight inches. But on the new topo survey that he put out. It came out clearer; it reads six foot, six inches. So that's why I was mentioning that the actual manini variance, if you're looking at it from a pre-2008, it's actually six inches by four feet; not four inches by four feet.

Mr. Kihune: I got a question for you Mr. Smentek, in the original meeting, the first meeting we had, you mentioned applying for the variance regarding the residence itself. Which has a portion of it which was added on as for as supposedly storage or library or whatever it is, right? And then another addition to that, correct? To this original building?

Mr. Smentek: Yes.

Mr. Kihune: But you mentioned residence in there and your information that you give us today, it names it as a storage facility. And if that's correct, that's an issue for me because we're talking residence not storage facility.

Mr. Smentek: Are you talking about the two garages that are down below or the - -

Mr. Kihune: If you refer back to the original application and information that we have, if you read the actual application on the original one- -

Mr. Smentek: Ok.

Mr. Kihune: - - you mention residence. And in today's meeting, I don't see anything having to do with residence. All I see is storage, unpermitted storage.

Mr. Smentek: And is that what they're calling the pantry?

Mr. Kihune: I have no idea. I'm not sure. I think the question for me, if you don't mind Mr. Chair. Is what is the intent other than the fact that you wanted to add a 700 square foot cottage. Is that all you want to do for the property? With this variance, you can have a 700 square foot cottage.

Mr. Smentek: What I want to do with this variance is - -

Mr. Kihune: No, no hang on.

Mr. Smentek: Yeah.

Mr. Kihune: With the variance you really want to add- -because if you get a variance you want to move forward and add a 700 square foot cottage, correct?

Mr. Smentek: Ultimately yes.

Mr. Kihune: Ok. So at the last meeting, there were some mentions of those two buildings that Mr. DePonte had mentioned that those are going to be removed.

Mr. Smentek: Moved.

Mr. Kihune: Moved?

Mr. Smentek: Yeah.

Mr. Kihune: Ok. And where would they be removed to?

Mr. Smentek: Where ever it's legal for me to put on the property, if it's not legal for me to move them somewhere on the property then they'll be destroyed.

Mr. Kihune: Ok.

Mr. Smentek: Whatever the Building Department is going to have me do with those I will do. . . I will love to try to keep them for the storage . . . if I can't then I'll just have to lose them.

Mr. Sung: So actually, you're not asking for three variance requests, you're only asking for one. Number two and number three which have to do with the storage units, you're willing to move out of the setback area and so it's really your concern is the . . . (inaudible due to cut off by Mr. Smentek). . . - - is that right?

Mr. Smentek: Ok. If we're looking at number two, it says to allow a 60 square foot unpermitted dwelling addition that is used as storage to remain between 6.12 feet and 6.64 feet from the side property line. Ok, what that is-is it's a pantry, it's 3 x 12, it's 36 square feet. So this is what I mentioned the last time, is some of the County's measurements don't meet the actual

measurements of the house. They're calling it a 60 square foot storage unit. It's a 36 square foot pantry. It's 3 x 12.

Mr. Kihune: Well, I think for clarification . . . so let's walk through this because otherwise this is not going to fly, I'm going to be honest with you right now.

So item number one the portion- - the 230 square foot unpermitted dwelling - - what is that?

Mr. Smentek: A portion of the 230 square foot unpermitted dwelling- -

Mr. Kihune: So attached to the house? It's ok. I have pictures so. . .

Mr. Smentek: You got these same pictures?

Mr. Kihune: No, you're going to need to share that with everyone so everybody can see it. So the question is this picture here or this picture here?

Mr. Smentek: No, here's the pantry right here.

Mr. Kihune: I know the pantry- -

Chairman Abbott: We need the microphone please.

Mr. Smentek: Yeah.

Mr. Kihune: - - the 230- -

Mr. Smentek: The 230 is - -

Mr. Kihune: It's part of the residence?

Mr. Smentek: its part of this and part of this. This portion and this portion.

Mr. Kihune: Ok. So that's part of the house. That's living space?

Mr. Smentek: Correct.

Mr. Kihune: It's not storage?

Mr. Smentek: Correct.

Mr. Kihune: Ok. So the pantry is pantry. It's not storage?

Chairman Abbott: It is now on the screen.

Mr. Kihune: Ok. Your pantry is not storage its pantry.

Mr. Smentek: Ok.

Mr. Kihune: This is a residence right?

Mr. Smentek: Right.

Mr. Kihune: So let's clarify this, because if this is your residence this is where you live; so you're asking us to give you a variance on your residence, not on your storage not on another piece of storage. You're living in these areas; these are part of your living square feet right?

Mr. Smentek: Correct.

Mr. Kihune: You're not storing junk or anything in there right?

Mr. Smentek: No.

Mr. Kihune: Alright, so let's reference this as your residence.

Mr. Smentek: Ok. But, this isn't the application that I turned into the Planning Department. This is what the Planning Department wrote up from the application that I turned in. It's not my wording.

Mr. Kihune: I'm trying to put apples and apples. So this building that we're talking about is your residence- - This building is your residence correct?

Mr. Smentek: Correct.

Mr. Kihune: It doesn't matter what- - I'm just trying to clarify here.

Mr. Smentek: Sure.

Mr. Kihune: This is your residence?

Mr. Smentek: That's correct.

Mr. Kihune: So you want a variance for the residence?

Mr. Smentek: Yes.

Mr. Kihune: Ok. Whatever comes because of this . . . if it has to be torn down or whatever, that's it?

Mr. Smentek: That's non-significant because yes I can tear it down or I can move it.

Mr. Kihune: So, my question is . . . you're asking for a variance here on a 510 foot square unpermitted structure. Why are we dealing with that? I'm not asking- - I'm not going to give- - I don't think we should be giving variance on a structure. You're concerned about your residence. Correct?

Mr. Smentek: Right. And when they were out measuring the residence, they saw that the storage sheds was close to the street and said "If you're going to do a variance, we should put it all in one thing, so you don't have to come back and do a variance for that later."

But, I didn't go to the Planning Department and say "Look, I want a variance for that- - "they said, "Look you need one for this, let's do this too at the same time."

But no, I'm just trying to get a variance for the structure, I'm not trying to change the footprint of the structure, I'm not trying to make it smaller, I'm not trying to make it bigger. I'm just trying keep it the same.

And as far as those storage structures go . . . they're either going to be moved somewhere on the property and permitted legally by the Building Department or removed off the property.

Mr. Kihune: So, my comment is that number three shouldn't even be a part of the variance, that's a totally separate item, is what I'm saying. I'm just looking at the residence.

Mr. Sung: But is number two even like number three. Or is number two part of the main residence?

Mr. Kihune: Number two is part of that building.

Mr. Sung: Is part of the main residence?

Mr. Kihune: Yeah, it's part of the residence. One and two.

Mr. Smentek: They're saying it's used and storage because it stores our canned goods and our rice and it's a food pantry. So they considered storage but it is living space regardless.

Mr. Sung: Thank you.

Mr. Kihune: And as you said, you're not concerned about that 510 square foot- -

Mr. Smentek: No, I'm not.

Mr. Kihune: So, I would have a difficulty in approving any variance which is subject to that 510 square foot - -

Mr. Smentek: I'm not looking for a variance for that, we can just scratch that off of the application.

Mr. Kihune: Well, we cannot. We have to go through a process.

Mr. Smentek: Yeah. But if you understand what I mean, is that "yes" I'm willing to . . .

Mr. Kihune: I think. . . Well this is just my comment, I'm not writing a summary or anything but it looks like you need to come back in. And I hate to do this to the Board but you gotta come back

in with something more clear. You're trying to get a variance for your residence, based on these two items that are living space in your home.

I mean, I could be wrong and maybe Planning Department could correct me. But we're looking at a residence and 230 square feet, that's an attached building to the residence. That's not a separate building, correct?

Mr. Smentek: Correct.

Mr. Kihune: And the other 60 square feet is attached to the residence. Correct?

Mr. Smentek: Correct.

Mr. Kihune: Again I could be wrong, I'm just commenting but we should be looking strictly at the residence. Whatever you do with the rest of your property, based on what the Planning Department will allow or will not allow. That's for you to figure out, not us. I'm not concerned with the 510 square foot structure. Because you are looking for a variance for your residence so you can stay in your residence without having to move that building?

Mr. Smentek: Correct.

Mr. Kihune: So I think that's what either needs to be corrected here or needs to come back with something like that.

Mr. Smentek: Well, it would be nice if we could correct it here today because this has gone on an awfully long time and it's quite difficult to keep putting it off and putting off the decision. Once again, I didn't go the Planning Department asking them for a variance for that storage. That came up when they were on site measuring the dwelling.

They were looking for other stuff that they could find that was a problem and they found something and so they suggested that I put that on here as well. I wouldn't have done so if I had known it was going to throw a wrench into the process.

But once again, those aren't critical, they aren't the house. I'm not concerned with them. They're a little bit out of the setback and they'll be moved, permitted or destroyed. And I can take that up with the Building Department. We could- - possibly if you folks could take a vote or do something and say, "You know can we remove item number three and move on with item number one and two, maybe we could come to some conclusion today.

Chairman Abbott: This is a legal issue. . . I don't know if . . . I'm going to say. . . I have a dichotomy in my own head here concerning this 510 square foot unpermitted storage structure. You have said a couple of times that you'll either move it or destroy. Yet, in your previous testimony you say there's nowhere else to build anything. No other place on the property to put it or any other structure; like your house could only be built in this particular area because that's the only place that's buildable. There's a couple of things that just don't make sense.

Mr. Smentek: I can understand that and if I may, I would like to explain the 510 square foot unpermitted storage structure a little bit. It's two storage buildings that are on one wooden

platform. The wooden platform is 510 square feet. The two structures are I believe 12 x 16, I think that comes to 240 square foot each. So, it's a total of 580 for the two. They are attached with the sunscreen . . . like a metal, canopy with that black knitting sunscreen between the two so that there's shade between the two structures.

It is not a single storage shed which is 510 square feet, that's a giant structure. It's two separate storage sheds that are on a wooden platform. What I'm saying there where was no else on the property to build a 1,300 square foot home; there's room on the property possibly where the new septic leach field is going to be - - the 240 square foot storage sheds those are going to have to be cut in half, the platform will have to be cut in half and they'll have to be moved and reposted and piered. If that's acceptable with the Building Department.

There's probably a couple of places on the lot where I can stick a little 12 x17 shed. It's not a 510 square foot one big building. It's not that at all.

Chairman Abbott: I need justification or clarification from either staff or counsel as to what will be done with the variance if anything to eliminate number three and just do whatever we have to do . . . or do we have to start all over from scratch? Or what are our options?

Ms. Thomson: If the applicant wishes to withdraw one of the variance request then that would be up to him to do that. If you decide to deny the variance request as it is currently submitted, you could do that. And then we can discuss other options.

I think that one of the puzzles that I have though is that the next picture after those two joined storage structures there's a picture of a second storage that's been submitted today and I'm not clear which part of the variance application that picture corresponds to- -

Mr. Smentek: There is no- - that one is not in setback violation. There is nothing on the variance regarding that third structure. It's just another building that's gonna either have to get permitted through the Building Department or removed off the property. And yes I'll be more then willing to remove number three from the application if that's acceptable.

Chairman Abbott: Another question if you would please . . . the addition of the pantry . . . does that further encroach upon the setback then does the body of the house?

Mr. Smentek: No, it's actually - - if you're - - let's see the dimensions are- - if we look at it from a pre-2008 six foot setback, the pantry falls well within that with some extra footage.

B. PUBLIC TESTIMONY (Continued)...

Chairman Abbott: I'm going to need a little bit- - we're going to change things around a little bit here. From where you're standing, I'm going to ask if there's any public testimony at this particular time. Seeing none.

D. UNFINISHED BUSINESS (Continued)...

Chairman Abbott: I would like to ask to them. Planning Staff to - - what is the?

Ms. Thomson: I think if the staff could give its recommendation and then maybe provide some clarity if the Board has questions as to what this variance request is trying to get at.

Ms. Balberdi: Ok. The Planning Department recommends denial of the subject variance and the applicant's are required to reduce the main dwelling and storage structure in a manner that is consistent with the Zoning Ordinance. We based our analysis on his application that he submitted in March – I think it was March 2nd.

Mr. Sung: Question Chair?

Chairman Abbott: Please Raymond.

Mr. Sung: I'm not even going to presume that the staff or the Planning Department is in a position to give an update to its recommendation or an analysis based on the testimony and subsequent developments since March. But, is it possible to get an updated recommendation from the staff based on what we've heard and what's been presented since its March analysis? Does that even make sense to do?

Ms. Thomson: Sure. You can ask staff if they have any updates, and then if they do and they can either present them today if they're prepared or they may need time and we'd need to defer.

Ms. Balberdi: In our last meeting I remember our Administrator John Rapacz, after hearing the testimony of Mr. Smentek regarding the first condition; I think he was ok with that. But he just needed some more evidence because we didn't have any evidence. But as far as meeting condition number two, I don't believe he -

Mr. Sung: Right. And I would also point out that at the last meeting I disagreed and I still disagree with the staff position on number three, because it's my belief and analysis that regardless of whether Mr. and Mrs. Smentek personally did anything to cause the situation as the legal successor and interests to the parties who did; they should be treated for purposes of the analysis of one, two and three, as though they had personally done it. And really that's what happens, if they have legal recourse for bad advice its recourse against those persons that gave them the bad advice. It's not recourse through the county and this variance processing. That's my view. Thank you.

Chairman Abbott: If I remember during the testimony of the last meeting what you were talking about Raymond, Mr. Smentek did advised the Board that the previous owner was deceased or was it very, very poor health or there was some reason that he could contact or proceed with getting back his property?

Mr. Sung: My recollection was that too that basically the various parties involved whether it was his own real estate agent or the seller's real estate agent or the seller itself. And the seller's own predecessors and interests were no longer easily reachable. That said my analysis is still the same which as the successor and interests to all those parties, Mr. Smentek is where he is. I supposed that someone might have a different understanding of how you would apply requirement number three regarding whether to grant a variance or not. But that's certainly my reading and I haven't heard anything yet to change my understanding of how number three should be applied.

So, as much as I sympathize with the situation for Mr. and Mrs. Smentek, I hear it more as a financial hardship argument than anything else but I haven't seen anything that solves number two or number three. And just as a refresher when we talked about depriving the applicants of the reasonable use of the property, we were talking about the entire property, not the use of the residence. And that was a clarification that we had sought from staff and corporation counsel as to the interpretation of that requirement. And so as I understand it - = - correct me if I'm wrong please staff or corporation counsel- - he's talking about the reasonable use of the entire property not just of the residence where it currently stands.

Ms. Thomson: That's correct.

Mr. Sung: Thank you.

Mr. Smentek: So did the topo map shed any light on reasonable use of the rest of the lot, of the property? Did it kind of clarify that the lot is not a level lot and there's not just tons and tons of place to build on the lot? I mean wasn't that the purpose of requesting the topo map?

Mrs. Reyher-Colon: The request for the topo map was actually to see where the drainage spot was located in regards to your residence.

Mr. Smentek: I had taken pictures of where the house was and the road and stuff like that and I thought it was because you couldn't tell how the land fell away from the house.

Mrs. Reyher-Colon: Correct. With your drainage easement being on the property line, what I needed to know was which direction your lot slopes to. And it looks like it slopes towards the drainage.

Mr. Smentek: Ok. And so the lot is not a useable level land that I can expand onto. I'm not trying to establish this as a financial deal; this is a geographical issue that the lot has. Is that it falls away steeply from the house and there's not really adequate places to push out or go any other direction.

Chairman Abbott: If it would help the Board, it would certainly help me. Can we please take this portion one by one? And let's discuss each particular portion and see if we can come to a conclusion or some kind of plan as to what we're doing?

Mr. Sung: But crossing out number three.

Chairman Abbott: Yes, please.

Ms. Thomson: I think if that if the applicant is wanting to withdraw number three then that should be really clear. Because all I've heard is you would be willing to withdraw number three. But, you have some options. Either the applicant can withdraw it outright and you don't have to consider that at all or you can just move through them one at a time. Take number one the house, number two and then number three. And then if it's withdrawn that time, then you don't have to consider it.

Chairman Abbott: Everybody understands where were going?

Mr. Sung: And before the applicant confirms one way or another, I think you should probably be made aware of the difference between withdrawing request number three verses letting it stand and if the Board were to deny the request for number three as it is stated that his rights might be different in raising that issue again either on appeal or raising it for the first time, should circumstances change.

Chairman Abbott: Ok. Anybody have any comments on number one, the portion of the 230 square foot unpermitted dwelling, it's actually attached to the house? Is that correct?

Mr. Smentek: It's actually attached to the house. Yes, sir.

Chairman Abbott: Is it attached on the side of the house that's in violation of the setback?

Mr. Smentek: Yes it is.

Chairman Abbott: If that were to be removed, how far still far would you be in violation?

Mr. Smentek: If you look at this from 2008 prior, we're only talking about a six inch by four feet variance. Ok. But, I'm not sure that the County is going to be happy with or the Planning Department. I think the Planning Department needs the variance for the whole portion as in today's codes. Because what I don't want to happen is for example for you to approve the variance for the six inches and the four feet and then the County's going to say, "Well, you gotta tear down everything else anyway because you didn't get a variance application with that."

So the variance application is for the whole portion for today's standards in order to satisfy the Planning Department. I believe that's what needs to happen. Ok? Did that answer your question?

Chairman Abbott: But, if the variance were granted to include this portion. What we would be judicating would be a law. That it would stand in perpetuity for the rest of the property. Is that not correct?

Mr. Kihune: I would assume that's correct.

Ms.Thomson: That's correct.

Chairman Abbott: If we're - - this is a very difficult situation; I assure you're very frustrating- -

Mr. Smentek: Please take your time.

Chairman Abbott: We're trying to be as fair as we can too. But we have perimeters that we have to follow.

Mr. Smentek: I appreciate that.

Chairman Abbott: I'm just wondering- - Going on from number- - let's leave number one at home for a minute. Let's go onto number two. Which is the 60 square foot whatever it is- - unpermitted which is the pantry in the house. Is there any possibility of removing that part? You're making it necessary to remove the pantry and scurrying off the wall where it originally was. Is that going to help the Board make a decision or the Planning Department going to be more cognizant in approving the variance?

Mr. Kihune: Mr. Chair.

Chairman Abbott: Yes?

Mr. Kihune: For me one and two, I think I can deal with one and two; three is where I would have a very difficult time. So for me, if I look at one and two and I would look at this from a standpoint that yes, in 2008 the law has changed, the ordinance has changed.

So he's within the inside of six inches on that one corner of the house. Prior to that or at that time, I probably would've allowed the variance for that structure. But at the same time, I would've put conditions on that structure saying that, "At any point in perpetuity that house would to be the living square feet or any part of the footprint was enlarged or decrease." And the variance would become null and void and the owner of the property, the owner would have to conform to the current standing.

Now that's how I would look at it. But I'm not going to deal with number three. Number three is totally something that's off the table as far as I'm concerned.

Chairman Abbott: Ok. Thank you. Any other comments. Questions? Richelle?

Ms. Thomson: Thanks. So, in considering the variance application, you need to look at the criteria and that the staff has recommended denial. Which makes your job a bit tougher; what you need to do is put on the record your reasons if you're going to grant the variance, you need to put on the record why you are granting the variance as to those criteria.

Mr. Sung: I entirely concur with Howard as to the scope substantively of what we would even be consider and item number three it would be off the table for me its a non starter. But even if we were to consider numbers one and two together and applying those criteria numbers one, two and three- - I don't see it. I was hoping that there would be additional compelling information that would change the analysis for me at least on the criteria. Personally, I think I haven't seen it.

Ms. Thomson: I think that something that the applicant presented today was the issue of the drainage ditch and whether or not that comes into play in the first two criteria. So whether there are exceptional, unique or unusual geographical conditions you would have to say, "Does that drainage ditch, does the topography meet that definition." And that it doesn't satisfy you.

Mr. Sung: Yeah, just for what it's worth, I think that if it does address anything, it does address criteria number one regarding the unique nature of the property that other locations in Maui Meadows may not be handicapped by. But regarding number two, at least as I understand it and maybe I misunderstand it's. . But at least as I understand it, it's whether the denial of the

variance request would deprive the applicant of reasonable use of the property. And it doesn't mean of just the residence as currently sitting on the entire property. And it doesn't even necessarily mean can he easily for example build another structure somewhere else on the property to live on.

So, he had to build post and stuff on a lower part of the property so that - - to address Mr. Lau's concerns- - a new structure wouldn't be at the level at the street, but he would basically elevate it. That is I guess a theoretical possibility and even if he had to do that and spend the extra money to do that, that doesn't mean he's been deprived reasonable use of the property.

So to me I think it's a difficult case for the applicant to show that requirement one, two and three had been met. I guess I'm telegraphing how view the analysis so certainly someone should put a motion on the table and seconded and be voted. But as of right now, I can't see how it can be done in a way that's favorable to the applicant. That's just my view point.

Chairman Abbott: Any further questions? Any information from staff that might help us make a decision? We heard the staff report, we heard their recommendations, we've heard multiples of testimonies.

Mr. Smentek: I'm wondering if staff actually reviewed the new information that was submitted with the topo map and did they even take that into consideration or are they just sticking with their old denial? That'd be my question to you Malia, is did you reevaluate my situation with the new information or did you just stick with the old plan?

Mr. Teddy Espeleta: I'd like to make a motion that we go into Executive Session please.

Mr. Willy Greig: Second.

Chairman Abbott: Motion for Executive Session. Motioned and seconded. Any questions? All in favor?

Members: "Aye."

Chairman Abbott: If you'll excuse us, we'll go into Executive Session.

Mrs. Cortez: Excuse me Mr. Chair; you want staff to leave also?

Chairman Abbott: Yes.

It was moved by Mr. Espeleta seconded by Mr. Greig then,

VOTED: Motion to move into Executive Session.

(Assenting: P. DePonte, T. Espeleta, H. Kihune, W. Greig, R. Sung. J. Reyher-Colon)

(Excused: C. Fukunaga, M. Kincaid)

EXECUTIVE SESSION FROM 3:56 PM TO 4:04 PM

Chairman Abbott: The Executive Session is over. The Board of Variances and Appeals is now back in regular session. Do we have questions or comments from the Board?

Mr. Kihune: I am still having a difficult time with item number three. But would be the applicant's options Richelle if he was to withdraw the application verses a denial?

Ms. Thomson: If you're still missing information that you want him to provide and he agrees and you can defer for another meeting and request specific information. He can maintain his application as is and you just take action on it today or another date. If he withdraws his application, then he could reapply at any time. If you vote to deny the variance request, to reapply he would need to wait for a year unless he has facts that are substantially different or new data or additional reasons, or if there are much stronger reasons for the variance, he could reapply at a shorter time frame then the year.

Mr. Smentek: And may I mention again that I didn't go to the Board of Variances and apply for the sheds. That wasn't my intent. I went to the Board of Variances and I applied for the dwelling, while the County was out measuring the dwelling, that's when they brought the shed into the issue and they said, "Mr. Smentek, you need do all three at one time."

Mr. Sung: Thank you Mr. Smentek. I think that this Board is well aware of that and for the time being we have taken number three entirely off of the table.

Mr. Smentek: Ok, great. And you also had mentioned that- that be removed and so we don't have to deal with that if I requests that-that be removed off of today's application? Can we make that happen? I'd be happy to do that.

Mr. Sung: Yes, I think that Howard's question for corporation counsel is that, if this Board were to have difficulty even with your request number one and number two, which are the variance request with respect to the main residence and the extensions or additions to it. Then whether there is a substantive difference between the Board denying the request for a variance for those main parts of the house verses you're withdrawing the application because there may be a substantive difference in your rights depending on what you choose to do or not do. And that was a clarification that I think we were asking corporation counsel.

Ms. Thomson: Right. And then the third option would be to defer the item if you're missing information that would allow you to make a clearer decision at a future date.

Mr. Sung: I don't know about any of the other members but I don't know of any information that I would like specifically that make sense for us to defer to a specific date so that Mr. Smentek can go get that information. To me, just looking at the analysis, I think that I would probably find myself unable to vote to grant the variance and so the question that some of us had out of curiosity is, would Mr. and Mrs. Smentek's rights under the ordinance and under the regulations be more severely impacted if the Board actually voted on the variance request items one and two and the outcome were a denial verses whether Mr. and Mrs. Smentek might withdraw their application completely and then decide if and when to resubmit with other information and use

this experience as sort of a guide as to how they might shape a future application to try to address that this body has enunciate it this time?

Mr. Smentek: Ok, Mr. Sung if I may. I did the first application and then talking to my draft person saying, "Hey Dennis, aren't I kind of playing Russian roulette with the county here?" Because for one, here I'm applying for a variance, they may choose to deny the variance and then have me tear down the house. So, I withdrew the application hoping it would go away. It doesn't go away, what they immediately did was they turned my application over to the other party that peruses the demolition and I was told that I had 30 days to tear down the structure or be fined \$1,000 a day, so on and so forth if I don't pay the fines, they put a lien on the property and take away the house.

So as a solution to this whole problem of me- - it's not a solution for me to just drop the application for the variance because that automatically starts the wheels turning again. With ok Mr. Smentek you have 30 days to tear down the structure or we're going to fine you \$1,000 a day if you don't pay we're going to take your house away from you. So it's not really a solution to my problem. It doesn't go away. It simply gets worse; it goes from the frying pan into the fire.

Ms. Thomson: Just to remind the Board in considering the variance application, go ahead and address them one by one, there are three separate ones. And the standards that you'd look at are number one is there an exceptional unique or unusual physical or geographic condition existing on this property that's not generally prevalent in the neighborhood?

Number two is whether strict compliance with the zoning code prevents unreasonable use of the property. And that the conditions creating the hardship were not the result of previous actions by the applicant. And Board Member Sung is correct in that subsequent owners do step into the shoes of previous owners.

Mr. Smentek: Ok. But did I or did I not clearly establish that this lot has a geographical - - it's different from everywhere else in Maui Meadows. Did I establish that or not? Can I ask the Board that? Do you have an answer on that? Was that established? Did the topo map actually - -was it worth it?

Mr. Sung: Is it appropriated for us to be polled individually on what we think whether he satisfied number one or not? I think that some of us are mixed but some of us think that he did.

Mr. Smentek: And the nature of that question is if I satisfied number one and I did establish that it's geographically a lot that falls into a drainage ditch . . . aren't I in the same sense satisfying number two in that the lots - - the lot isn't useable in the state that it's at right now for other dwellings. It's falling away in a drainage ditch. That's what makes it different.

Does it create a hardship for me using the lot? Yes, because I can't use it. How do I know if the County's going to let me truck in a 100 loads of base material and import soil on the lot and build it up and compact it and build something there? See I don't know that because it's a drainage ditch. I think they have to have an easement where you can't even build certain amount close to the drainage ditch because if you build there it could wash away in a big storm. So I'm just wondering isn't by establishing number one doesn't that also establish number two? Is that a fair question?

Chairman Abbott: Ok. I think it's time for just Board discussion at this particular time. We reviewed, we heard all the facts, we heard all the testimony, and we've heard the pros the cons we heard everything that I feel the Board needs to make a decision. And I think at this particular time it's time for the Board to make a motion. Or come up with- - I don't think there's any further information or questions we can come up with at this time.

Mr. Sung: One more question for corporation counsel. If someone were to make a motion to grant the variance as stated, it were seconded and this Board were to vote on it. If the answer were no, is that substantively different then if someone were to make a motion to deny the variance and the answer came yes or aye to deny.

Ms. Thomson: Yes it is different. So, if there's a motion made to approve that doesn't pass so you don't have sufficient votes to pass it. That's no action by the Board. So, if you can't get anywhere on this particular what that means is it would automatically defer to the next meeting. But we need to look at the time frame for the automatic approval. So the time frame kicks in there too. So that is different than it doesn't amount to a denial. Which is what I think that you're asking.

Mr. Sung: But because the automatic approval feature in the statute would kick in. Essentially were just kicking the can down the road until you have to either deny or pass it right?

Ms. Thomson: Correct. And if you wait long enough then it's an automatic approval.

Mr. Sung: Right. Thank you.

Chairman Abbott: I'm open for a motion.

Mr. Kihune: I make a motion to deny the variance.

Chairman Abbott: A motion is made to deny. Do we have a second?

Mr. Espeleta: I second.

Chairman Abbott: Discussion.

Ms. Thomson: Ok. So there's a motion made to deny and a second. Is that based on the Staff Reports and Recommendations are you adopting that into the motion and if not you can put your own reasons for denial. But we need to have those on the record before you vote.

Mr. Kihune: My motion would have to be made with the Staff Recommendation as stated.

Mr. Sung: But also made with the further clarification that number three on the staff report and recommendation, at least some of us believe that –that too had not been satisfied because we believe that Mr. Smentek steps into the shoes of his predecessors and interests in ownership of the property.

Chairman Abbott: Any further discussion? Any further comments? I'll call for a vote. Oh wait, we have comments from staff.

Mrs. Cortez: Hi, Carolyn Cortez again Chair. I just want to make sure . . . was the criteria number one met or not met?

Mr. Sung: Do you want us to go through the criteria one at a time?

Mrs. Cortez: That would be helpful. Sorry if that's ok.

Mr. Sung: Do we have vote on that if we defer?

Ms. Thomson: No. So the motion is to deny the variance request so that's what's on the floor. You can discuss your reasons. And the reasons would be as to number one two and three, that it did not meet the criteria and which way it did not meet it.

Mr. Sung: I think that some of us might view number one as having been met and some of us might view it as not having been met. So it's not a simple answer to the question of what its met or not.

Ms. Thomson: Ok. So a way of handling that would be to - -you could take it one by one . . . or in some because you have to meet all three criteria so even if in discussion it comes up that it's some what mixed. But you have to meet all three.

Mr. Sung: I think it's just fair to say and somebody correct me if I'm wrong. I think it's fair to say that there is at least one of us who believes that variance requirement number one regarding the unique nature of the property was met and there is at least one of us who believe that it wasn't met. So it's really mixed as to whether it was or not. There's not simple answer as to yes definitively it was met or no definitively it was not met. I think it's mixed because there are different people on this Board and they each have different views of the extent if any that it was met.

Mr. Kihune: Can I elaborate on that?

Chairman Abbott: Please Howard.

Mr. Kihune: I think to some degree it has some unique physical geographic conditions but I think with the proper engineering and the proper professional help that could be delegated so you can utilize that land. So I think from that standpoint there are opportunities that the so called physical condition won't impact the lot. And I need to make that clear. Because there's other options to move that house out, post and pier you can bring in fill there's a lot of different things that you can do to move that bigger structure.

Chairman Abbott: Ok. Item number two.

Ms. Thomson: So number two just to refresh your recollections here. Strict compliance with the applicable zoning provision would prevent reasonable use of the property.

Mr. Kihune: And we're talking the property as a whole right?

Mr. Sung: I think most if not all of us view that requirement as not having been met because most if not all of us view the denial of the variance as not affecting the reasonable use of the property as a whole. Again we understand that the applicants may have a different view point with respect that their residence as it sits. But based on what was explained to us as the interpretation of the requirement, it speaks to the property as a whole.

Ms. Thomson: And then number three is that the conditions creating the hardship were not the result of previous action by the applicant.

Mr. Sung: And that one, I believe as much as I wish that-that requirement for the variance were satisfied, I don't see it. I wish somebody smarter than me could show how it was satisfied but we believe that it has not been.

Mr. Smentek: Well, I have a question Mr. Sung. If you're looking at it from a legal standpoint, I may have stepped into the shoes of the person I bought the house from. I definitely stepped in something. But if you read the specific wordage of number three it specifically said "Did the applicant cause the problem? Did he create the problem? Did he build without a permit?" No, I did not. Yes, I purchased the house from a previous owner, but if you read it again, it doesn't ask "Did you purchase the house from the previous owner and are you assuming all the legal liabilities that goes along with that." No, it specifically says "Did I create the problem- - did my actions create the problem?" No, I'm not the one that built the addition, the previous owner did.

So I think you need to clarify - -is this looked at from the legal standpoint and is it looked at from the wordage on the paper? The wordage on the paper says, "Did I do it? Did I physically do it? Did I create the problem? It does not say, "Did I purchase house and was there existing problems? Yes, I purchased the house, there were existing problems.

Mr. Sung: If you were to make that kind argument to any other Board or a judicative body, I wish you much success in trying to make that argument stick. So, I understand how you view the interpretation of that requirement, you and we seem to differ at this point- -

Mr. Smentek: The County agreed with me at the last meeting as well. At least someone agreed.

Mr. Kihune: Mr. Smentek just a comment you gave us this piece of paper here and the very first one says, "Pull After-The-Fact Permit." So to me, you were aware that there was an issue and during the time of due diligence with prior to closing the property, I would assume that you would've been at the County checking into what position you have or what direction you needed to go to get that result. But you stated that you knew that you had to get an After-The-Fact permit.

Mr. Smentek: That's correct.

Mr. Kihune: So you were well aware of the issue that's here before us right now.

Mr. Smentek: No I wasn't aware of the setback. I was aware that there was an addition done without a permit.

Mr. Kihune: But you knew there was an issue right?

Mr. Smentek: I knew there was an issue with the home, that's how I was able to afford to buy that particular home because it had an issue. It was added on to without a permit.

Mr. Kihune: Ok. I'm not here to judge you; I'm just trying to explain. If you had done the due diligence and went to the Planning or Permitting Department you probably would've gotten the information "Yes, you're not permitted, so let me see the survey for your house:" "Oh, you're in the setback too." So, I'm just trying to get to a point that we're not here to tell you what to do and we're not judging you but the thing is we have not met all three criteria- -

Chairman Abbott: Call for a vote?

Mrs. Reyher-Colon: Can I call for the question?

Mr. Espeleta: You calling the question?

Mrs. Reyher-Colon: Yes, I'm calling the question for the vote.

Ms. Thomson: So, when a member calls for the question, that's the Chair's decision. So you can either immediately take the vote or you can not take the vote immediately and ask if there's any further discussion from the Board.

Chairman Abbott: Thank you.

Mr. Sung: One further question or thinking out loud, before the question is called and this Board actually votes on the issue or whether to pass the motion to deny the variance request. I'm just wondering out loud whether Mr. and Mrs. Smentek who might be listening right now are contemplating withdrawing their application before we ever get a chance to vote on the matter. But, obviously we can't wait indefinitely so I'm just wondering before we vote.

Mr. Smentek: I just have one other document that I don't have a bunch of copies of but that I wanted to share with Howard, it's from the original survey that was done, that I was provided the survey of the home before I purchased it. It states here, "Dimensions from the closest house corner to the southerly left side boundary line are shown on the survey plot. County building setback requirements were not determined by this office." And it says here, "No visible structures along the perimeter boundary line were noted as encroaching into or out of the subject lot 73 at the time of the survey." Do you happen to have a copy of that? Anybody?

Chairman Abbott: No, Mr. Smentek.

Mr. Smentek: Yes?

Chairman Abbott: Are you asking the Board to defer their judgment today?

Mr. Sung: Or are you withdrawing your application?

Mr. Smentek: No, I'm not doing any of that. I was just asking if you guys had a copy of this yet, because he was saying didn't you do your due diligence. I did do due diligence.

Mr. Sung: So to be clear. You're not withdrawing your request?

Mr. Smentek: My request for a variance?

Mr. Sung: Correct.

Mr. Smentek: Well, I just explained that if I were to withdraw the request right now, then I go into a situation with the Planning Department there I have 30 days to tear down the house or get fined. And so on and so forth. So, you're wondering if I wanted to - -

Chairman Abbott: Defer.

Mr. Sung: Or withdraw.

Mr. Smentek: How would it be of any advantage to me to withdraw at this point? I don't understand that.

Chairman Abbott: That's not our- -

Mr. Kihune: Yeah, we're not legal counsel- -

Mr. Smentek: Ok. No, I don't want to withdraw.

Chairman Abbott: Ok. Then I'm calling for a vote.

Mr. Espeleta: Mr. Chairman you have to explain the calling of the question and discussion.

Chairman Abbott: Ok. Help me out a little bit here. The question has been called, which calls for a vote from the Board, is that not correct?

Ms. Thomson: Right. So calling for the vote, ends the discussion and then you take a vote on the motion.

Chairman Abbott: So we're ending the discussion. It's over we're calling for a vote. All those in favor of denial of the variance, say "Aye."

Members: "Aye."

Chairman Abbott: Are there any opposed? There are no opposed. The **variance is denied.**

It was moved by Chairman Abbott, seconded by Board Members then,

VOTED: Motion to deny subject variance.

(Assenting: P. DePonte, T. Espeleta, H. Kihune, W. Greig, R. Sung. J. Reyher-Colon)

(Excused: C. Fukunaga, M. Kincaid)

E. APPROVAL OF THE MAY 28, 2015 MEETING MINUTES

Mrs. Reyher-Colon: On the minutes, there's a typo on who seconded- -

Mr. Kihune: I believe Mr. DePonte made the motion right?

Mrs. Reyher-Colon: Yeah.

Chairman Abbott: My only correction is page five, it's not "Hooting" it's "Cooling".

Mr. Sung: Question for Corp Counsel. When I first came on Board, I asked the question and at that time Mike Hopper was our Corporation Counsel and I said, "Can I abstain?" and I thought that the answer that I received from back, I don't if it was from staff or Mike was that if it's abstained in a sense it counts as a yes.

Ms. Thomson: That's correct. So, if you abstain from the voting unless you have a conflict of interests, that you declare on the record. . . so if a company that you work for has an application in front of the Board, you disclose that and then you are excused from voting and your votes not counted either way.

Mr. Sung: But any other case. . . You can say "abstain" but it still deems an approval unless you say "no".

Mrs. Thomson: Exactly.

Mr. Sung: Thank you.

Mr. Kihune: Motion to approve.

Mrs. Reyher-Colon: I second.

Chairman Abbott: Motion to approve and seconded. Everybody in favor? **Approved.**

Members: "Aye."

It was moved by Kihune, seconded by Mrs. Reyher-Colon then,

VOTED: Motion to deny subject variance.

(Assenting: P. DePonte, T. Espeleta, H. Kihune, W. Greig. J. Reyher-Colon)

(Abstain: R. Sung)

(Excused: C. Fukunaga, M. Kincaid)

F. NEXT MEETING DATE: THURSDAY, JULY 23, 2015

Chairman Abbott: Next meeting on July 23, 2015.

G. ADJOURNMENT

Chairman Abbott: Meeting adjourned at 4:32 p.m.

There being no further to come before the Board, the meeting adjourned at 4:32 p.m.

Respectfully submitted by,


CHALSEY R. K. KWON
Secretary to Boards & Commission II

RECORD OF ATTENDANCE

Members Present:

G. Clark Abbott, Chairman
Patrick De Ponte
Teddy Espeleta
Howard S. K. Kihune
William Greig
Raymond Sung
Juanita Reyher-Colon

Members Excused:

Chad Fukunaga, Vice-Chairman
Max Kincaid Jr.

Others:

Carolyn Cortez, Staff Planner, Department of Planning
Malia Balberdi, Staff Planner, Department of Planning
Chelsea Rabago, Staff Planner, Department of Planning
Nancy Mahi, Secretary to Zoning Administration Division
Richelle Thomson, Deputy Corporation Counsel, Department of the Corporation Counsel

Others Excused:

John Rapacz, Planning Program Administrator, Department of Planning