

**BOARD OF VARIANCES AND APPEALS
REGULAR MEETING
January 8, 2015**

A. CALL TO ORDER

The regular meeting of the Board of Variances and Appeals (Board) was called to order by Chairman Tanner at approximately, 1:30 p.m., Thursday, January 8, 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 Tanner: The meeting of the Boards of Variance and Appeals will now come to order. Let the record show it is 1:30 and we do have a quorum.

B. PUBLIC TESTIMONY

Chairman Tanner: Public Testimony will be taken at the start of this meeting for any agenda items. We only have one, never mind.

C. UNFINISHED BUSINESS

1. Wayne I. Arakaki representing MARTING HERLING applying for a variance from Maui County Code §18.20.040(B), to not provide a minimum 20 foot pavement width for Olinda Road, for the proposed 3-lot subdivision for property located at 1074 Olinda Road, Makawao, Maui, Hawaii; TMK: (2) 2-4-013:088 (BVAV 2014/0004) (P. Critchlow) (**Deferred from the December 11, 2014 meeting.**)

Chairman Tanner: At this time will staff read the first notice of Public Hearing into the record please?

Mr. Critchlow: My name is Paul Critchlow, Staff Planner, Planning Department. (*Reads item into record*).

At this time I'd also like to request that when you do file a motion, to approve or deny that you...if you can... state they comply or don't comply with the five criteria items. And I've got on the screen, the general area. If you want me to go over that area again to refresh your memory, I can.

Chairman Tanner: Yes, please.

Mr. Critchlow: Ok. This is not coming out too good. But, you got Makawao town, Pukalani here, the top of Olinda is about right here. About half way up Olinda road or a third approximately is the location of house, right about here. And on the pictometry, this is the parcel itself. The road fronting it, is a straight section. Right about there. Any questions?

Chairman Tanner: No? Ok. At this time if the applicant will come forward or the applicant's representative and state your name for the record?

Mr. Wayne Arakaki: Good afternoon Board. My name is Wayne Arakaki. I'm representing the applicant Martin Herling.

Chairman Tanner: Wayne, are you agreeable to the waiving of the reading of the Staff Report?

Mr. Arakaki: Yes.

Chairman Tanner: Thank you. Go ahead.

Mr. Arakaki: This is a three lot subdivision, agricultural subdivision. So, the lots are two acres. The total property area again 12.5 acres. But we're just doing three lots. Majority of this property is in pasture land, waste land. There's a gulch located in the back of the property. Along this backside, it's a gulch and then the useable property is probably in the front. There's some property in the back, but primarily it's gulch.

Olinda Road is here, it's one of the few areas that there is a straight road, along Olinda. And what I did was... I have a radar gun that I got, a toy, but it works. The posted speed limit, actually...you know I see the speed limit when I went up to Olinda Road, is 20 miles an hour. And if you check my data, most of the cars, they travel at an average about 30 miles an hour. The fastest being about 37, and I never did clock a car that was going the speed limit at 20 miles per hour.

You know, Olinda Road is not really congested. It's...like I said it is a Country Road. But, one thing I noticed, that at every turn, on this area here. There is a speed limit says 20 miles per hour, around curve. I took pictures of the speed limit above and below the subdivision.

So, what happens is that, when people coming down this stretch of road. They're traveling like I said...the fastest I clocked was at 37 miles an hour. Then at this corner here, at this curve here, there's a 20 miles per hour. Because, the curve is meant to be safely traveled at 20 miles per hour. But, you know...not knowing the area, you might run into problems if you're going over the speed limit.

So, what I'm trying to get at is, if we do expand the road, it's actually like encouraging traffic to speed up. And when you think about it, Olinda Road, it is a narrow road, 18-17 feet wide in pavement. It's just like...what do you call that? Traffic calming. It's a traffic calming thing. Like, similar to I guess speed bumps, cause it kind of slows down the traffic. So, I wanted to present that to you folks on the speed data that I took.

Getting back to my other presentation. The last time I was over here. I think you folks still have this. But you know, there's a large amount of cut that has to be done along part of the subdivision. About midway, where the existing driveway is located. And then the balance would be filled. But when we do this excavation, cut or fill. We're going to create shoulders along the side of the road and then that's going to increase the run off along Olinda Road.

So, on Olinda Road, like I said...it's narrow, there's banks mostly on both sides. It's kind of like creating a ditch and you know, you're putting more water on Olinda Road. There is no County drainage system in that area and I think this would be a problem. For now, that's all I have. If you get any questions. The owner wants to speak also.

Chairman Tanner: Ok. Thank you. At this time, we'll open it to questions from the Board for Wayne. Ok. Seeing none at the moment. We'll ask the applicant to come forward and speak. If you'll state your name clearly for the record please.

Mr. Martin Herling: Martin Herling and good afternoon everyone. Let's see. I've been working on this implementation of this three lot subdivision for about five years and for one reason or another, it's taken about a year to get a variance hearing. So, I'm very happy to get your attention right now for this.

So, I don't know exactly what purpose this short amount of road widening would really serve. Because, I can't imagine Olinda Road itself, ever being totally widen, such a difficult road with all the trees on it. So on and so forth. So, I just kind of feel like this idea of 20 feet wherever you are, may be a hardship. Kind of like one side of this ordinance doesn't fit all the situations. I think.

When DSA was asked if they wanted to road widened. They said no, in the last meeting and possibly because of the drainage problems. Serious drainage problem. If you drive on Olinda Road after a storm, it's such a mess. I don't want to create an even bigger mess.

As Wayne talked about, I think by suddenly widening the road and then it going narrow again, cause it's pretty narrow right before and right after my property. My property probably averages 18.5 feet. Between 17-19 feet of roadway.

So, there's curves both up hill and downhill, so you'll be riding on this road and suddenly come to a curve and I don't think it's a good idea for the road to be any wider. So much wider than any other road ...(inaudible)...

I think my neighbor, my downhill neighbor, asked that the road not be widened because there's a big 10-15 foot hillside adjoining the road right next to me. And if I widen that road, I don't really know what would happen to her driveway. Because, her driveway incorporates that and there's some big pine trees right there and I think that it may erode those and then they're going to fall down. I can't say, but that's possible.

And the other thing is the extraordinary hardship of widening Olinda Road, which is asked for 970 feet of widening of Olinda Road. You know, it would just deter anyone except for large subdivisions. I'm just a small family like subdivision. Of three lots and it would just be an extraordinary difficulty to actually do this. Especially because of the hillside on the grass.

So I appreciate you attention through all of this Thank you very much.

Chairman Tanner: Thank you. Board members?

B. PUBLIC HEARING (*continued. . .*)

Chairman Tanner: Well, let me open the floor to Public Comment at this time. If there's anybody from the public that would like to give testimony on this agenda item. Please come forward now. Seeing none, we'll close public commentary. And open up for questions from the Board for the applicant.

Staff do we any further communication emails, letters, either for or opposed to this request?

Mr. Critchlow: No, we do not.

Chairman Tanner: Thank you. Do you have something? Oh ok, right. I think everybody has the information that came in-in the first hearing. So, we don't have anything further from that correct? Ok. Thank you.

Vice Chairman Abbott: Mr. Chairman.

Chairman Tanner: Go ahead.

Vice Chairman Abbott: I believe when we were addressing this item in December, before this meeting was reschedule to now. We were having a discussion as to the fire problem. And we now have the Fire Department here, and any information they might be able to share or help us to make a decision, would be very very appreciated. So, if one of them would like to venture for us?

Chairman Tanner: I didn't even see you draw straws back there, but you got the short one.

Lieutenant Kono Davis: Kono Davis with the Department of Fire and Public Safety. That was actually the subdivision I was working on, so that's why I get the short straw. Or the long straw. But anyways, right now we did not approve construction or the construction review for this subdivision, because of the road. Our requirements require 20 foot wide all weather surface.

I wasn't here for the last hearing to hear about what was discussed. We didn't get called to the BVA for this issue, so we weren't here to make comments. Right now the status is that, we're not approving the subdivision until something happens. Either to the BVA or they provide a 20 foot wide all weather surface.

I'm not quite sure about the runoff and the considerations for that. I can tell you why we require the 20 foot wide, if that helps. So basically, just as far as the Fire Code is concerned and the reason why we require the 20 foot wide, all weather surface. Is because the more lots you create, the more people will be on that road. And instead of making the applicant improve the entire road from the beginning. We just allow them to do the frontage of their property. So that the next person that comes in and does a subdivision, will do their improvements and hopefully the road will be entirely 20 feet wide.

The other reason for the 20 foot wide, is basically so that we can have an apparatus parked on that road. And other apparatuses pass by that one. Especially, on a dead end road, we need to be

able to have actually people get in. Which mean emergency vehicles pass one that's parked on the road, as well as evacuation of people coming out of Olinda Road, on the way down.

So there is reasons for the 20 feet wide all weather surface, per the Fire Code. If it was granted, the variance was granted. That takes away our access portion of the Fire Code. And we would recommend something like, all structures that are permitted there after shall to be sprinkled, if that were the case. But right now were actually speaking to the 20 foot wide all weather surface. Make sense?

Chairman Tanner: So you don't have a concern with the road suddenly being wider and then more narrow again at that point, from the safety stand point?

Lieutenant Davis: No.

Chairman Tanner: Ok.

Lieutenant Davis: We didn't see an entire section of the road and the topography and what's happening there. So, I wouldn't be able to answer that question, really "yes" or "no".

Chairman Tanner: Ok.

Lieutenant Davis: The reason why we request the widening of the road is basically for the apparatus access portion of it. Hopefully, other departments will make an effort to comment on the safety factor as far as sight distances and such, cause we don't address that.

Chairman Tanner: Ok. Got it. Thank you. Yes?

Mr. Raymond Sung: Question. I'm not expecting Lieutenant Davis that you're defending the Fire Code or even explained the reasoning. But, I just wanted to observe that it seems to me that if the topographical conditions of Olinda Road are such that, the Fire Department believes it would need the wide enough access for its apparatus and for ingress and egress for evacuation purposes and safety purposes. That-that necessity for a wider section of road, would be there regardless of whether the lot were being subdivided or not.

The subdivision of the lot, arguably may add to the density of that land. But ultimately the Fire Department needs to get there to fight fires or to go further up the road to fight fires and we would just want a wider type of road. That need is going to be there regardless of whether Mr. Herling gets his subdivision permitted or not. Right?

Lieutenant Davis: Correct.

Chairman Tanner: Thank you.

Mr. Patrick DePonte: That's right.

Vice Chairman Abbott: I'm not familiar with this road at all or have either end of the proposed

widening and how...(inaudible)... Is there a severe curve? What is the road layout? Can anybody tell me? If you're approaching his property, is there a small curve to get through the frontage of his property? Which would necessitate extra caution?

Chairman Tanner: Yea, in these photos you can't really tell.

Vice Chairman Abbott: I can't really tell.

Mr. Arakaki: Thank you. On the last sheet here, there's a project site. And one of the 90 degree curve with the 20 mile per hour speed limit, is located right after the subdivision. There's one that's a kink which is not that subtle but after that towards the end there's another curve. I took pictures of the speed limits and that's where the curves are. Upper and lower side.

Chairman Tanner: Oh ok.

Vice Chairman Abbott: Wayne, if I may ask. Approximately, what is the length or distance of piece or that portion of road, before the 90 degree curve, before it reaches the customer's or this applicant's property?

Mr. Arakaki: Ok. On the lower side, about 200 feet. And the upper side there's a kink but then it goes straight out again. So that would be about 600 feet.

Chairman Tanner: Yes?

Mr. Sung: This one would be a question for Mr. Arakaki or Mr. Herling. So, Lieutenant Davis had made reference to possibly the Fire Department looking to sprinkler requirements for structures on the property. If a variance were to be allowed with respect to not requiring the road widening. So sort of that as the mitigating factor. Is that something that you and Mr. Herling have any thoughts on, that you would like to share with this Board?

Mr. Herling: I would certainly agree to sprinkling any new structures put on the property.

Mr. Sung: And what about existing structures? If that's a requirement by the Fire Department?

Mr. Herling: Well, I don't think he asked...the Fire Department asked for that. But it would just very difficult. There's two houses there. To sprinkle existing houses, would make it fairly difficult. Those two houses, are within a certain distances of the fire protection on the road. They're within the 500 feet of that fire protection. So, I would...if I had to, I could sprinkle them. But, it would just destroy the house's integrity in a way and since there is already fire protection on the road within that 300 feet (I think or something like that), then I don't know if it would be that necessary to do that there. But, if I had to, I could.

Vice Chairman Abbott: I have a question. How far off of the road, are the existing structures?

Mr. Herling: Well, I guess they're about...

Vice Chairman Abbott: For the sake of bringing water to and from with hoses or whatever.

Mr. Herling: Yea. I think they're maybe 200 feet. I'm not exactly sure.

Mr. Critchlow: This distance tool here, I click on the farther house and approximate road, we've got about 289 feet, the closer house to the road, approximate 222.

Mr. Sung: Do you know where the standpipe is?

Mr. Critchlow: I do not. Wayne may.

Mr. Arakaki: There's a standpipe. One in front of the driveway, right there. It's within the 500 feet. But there is a standpipe here.

Mr. Herling: And if it was necessary to alter the driveway a little bit to get access to that standpipe, I wouldn't be against doing that.

Vice Chairman Abbott: If I may? Can we have Lieutenant Davis come up? What is your take on this? Is there enough distance for your trucks for the standpipes to reach those structures? In the event of an emergency?

Lieutenant Davis: If in deed the case that the standpipe is there...can you put that one back up? The layout? Can you measure from the road to where that road tees off? The driveway tees off. No, no no...right to where it tees off. So actually it's 500 feet via route of travel, so it's along the roadway yeah. So basically, just try and go from across, from there to there, just right there yeah. Not the area, try distance. That's about 120 and then from there back to the road. Yeah, should have enough.

Vice Chairman Abbott: So this would meet within the guidelines you would require?

Lieutenant Davis: Yeah. And what Mr. Herling said was true. We're not going to have them put in fire protection for a structure that was...if it was in deed permitted.

Mr. Sung: For existing?

Lieutenant Davis: Yes. An existing, conforming structure, is ok. If it has a permit and it was approved, then it's ok. Any further structures that go through the permit process, we would request that fire sprinklers be installed. If in deed the BVA grants the approval of the variance.

Members: Thank you.

Chairman Tanner: Scott?

Mr. Scott Matsuura: I have a question maybe Wayne can answer? I have a question about the driveway. Do you know how wide the driveway is?

Mr. Arakaki: The driveway...you know because it serves three lots. It's going to be 16 feet wide, paved, improved. But the right of way minimum is 24 but I have it at 40 right now. 40 right of way.

Chairman Tanner: Yes?

Mr. Sung: Question for staff. Is the County aware of any long range plans for road widening of Olinda Road as a whole to meet the 20 foot requirements? Or is it still planned as a sort of at halt project, where whenever a subdivision is applied for, that's the only time you would have the opportunity to ...(inaudible)...

Mr. David Goode: Good afternoon Board, David Goode here, Director. We have no plans to improve Olinda Road for a long time. Other than resurfacing or minor improvements.

Chairman Tanner: Any further questions from the Board for the applicant? Ok, hearing none, we are open for a motion.

Mr. Sung: Question Chair? Are we still required to provide findings before we make a motion? Or do we do that after the motion has been presented and voted on?

Chairman Tanner: Well, within your motion, you should advise how you feel the applicant has met the criteria for approval. Or in the case that the motion is to deny the variance, how you feel they didn't meet the criteria. And then at that point, once the motion is seconded we can go into discussion and add to or...

Mr. Matsuura: I have a question for staff.

Chairman Tanner: Yep.

Mr. Matsuura: If I remember correctly, the last time we did this ...(inaudible)... and whether or not this variance will apply to, specifically this subdivision ...(inaudible)...

Mr. Critchlow: It is our understanding that it would be just for this subdivision.

Mr. Matsuura: Ok.

Chairman Tanner: So, if the variance was granted, it does not allow the ability to further subdivide based on this variance?

Mr. Critchlow: Without coming in for another variance.

Chairman Tanner: Ok.

Mr. Sung: I'll make a motion.

Chairman Tanner: Ok.

Mr. Sung: It may be rather long winded so bear with me. I would be prepared to make a motion to approve the requested variance based on Findings of Facts as presented in the applicant's application; and subject or with the further reasons for traffic safety due to sudden widening and then narrowing only a section of Olinda Road. Rather than the entire road. And possible drainage concerns resulting from the widened section. As well as the objections of the neighbors downhill from the property, to road widening and the concerns for drainage and flooding.

And I would condition or make it part of the parameters of the variance that in accordance with recommendations from the Fire Department, that in lieu of the 20 foot widening requirement for that section of frontage of Olinda Road, that any new structures in the subdivision would be required to have appropriate sprinklers in place. Sprinkler systems there approved by the Fire Department.

And then I would also add that the variance be subject to the normal indemnity and Hold Harmless and subject to technical corrections as may be required by the staff.

Chairman Tanner: And Maui County as additional insured?

Mr. Sung: Yes.

Chairman Tanner: For one million?

Mr. Sung: Thank you.

Chairman Tanner: Ok. So we have a motion for approval of the variance. With the conditions that new structures be sprinkled, that there be a standard Hold Harmless Agreement and Maui County listed as additionally insured on the insurance. Do we have a second?

Vice Chairman Abbott: Second.

Chairman Tanner: Ok. We have a motion and a second. And we are now open for discussion. Ok. Hearing none, I will call for a vote. All those in favor to approve this variance with the conditions applied, please raise your right hand.

Members: All raised "aye".

Chairman Tanner: And we have a **unanimous vote for approval** of this variance.

Mr. Arakaki: Thank you.

Chairman Tanner: Thank you gentlemen. Appreciate it. Thank you.

It was moved by Mr. Sung, seconded by Mr. Fukunaga then,

VOTED: Motion to grant the variance.

(Assenting: C. Abbott, P. DePonte, T. Espeleta, W. Greig, S. Matsuura,

R. Sung)

(Excused: C. Fukunaga, H. Kihune)

D. DISCUSSION

The Board has requested an agenda item for discussion of consistency of staff reports and recommendations across all departments. The Board is requesting clarification on how staff reports are written and would like for all departments to use the same or similar format for their reports and recommendations to the board. The Board stated that due to their lack of knowledge when it pertains to certain Maui County Codes, they feel that the departments should provide a staff analysis and recommendation.

Chairman Tanner: Ok. So at this time we'll move on to the next item of the agenda D. Discussion. And this is an item that Board members had requested and County Staff have graciously taken from their time to appear here today.

Before we get started with that, I just want to reiterate. Our interest in being respectful of everybody's time here, I know everybody's very busy and I really do want to express the Board's appreciation for your attendance here. Everybody knows our purpose, as well as we ourselves do, and our intent is to be as accurate as we possibly can with every variance.

We fully understand that every decision we make whether that is to deny or to grant or to give an appeal, has long lasting impacts on the entire community and all of Maui County. And those are the reasons that we've chosen to volunteer our time.

That said, we're not experts. You folks are the experts, the better we understand your position and your thoughts on each one of these. That I think the more accurate we can be and the more confidence we can have, that we're doing the right thing. By all of those that have put us here.

So, that being said, again, thank you for coming. I guess if we could start with Mr. Goode if you're ok?

Mr. Goode: Thank you Chair and good afternoon members. I appreciate the opportunity to come as well. It's been awhile since I've been before the BVA so I see some familiar faces from other endeavors perhaps. And see some new faces as well.

First of all, I'll say, I appreciate the work that you do, because it's a little different than say like, Planning Commissions that have to approve an SMA Permit or a project. You're basically charged with primarily the variances with the applications that don't want to fit our codes. Whatever the code might be and looking to go outside of it just a little bit. And that's always a stretch for us, because we're here to enforce the code, not promulgate new codes by going through the Council. We generally think of them as a one size fits all. So whether you're building Olinda, you're building in Kihei, you're building in Kaunakakai, it's the same.

But we recognize that there are special circumstances that develop from time to time, that is the reason for the Board to be here. We certainly understand what you folks have to grapple with and

the desire to have. . . I guess from our Department in particular. . . better information or better professional advice, if you will. When I say "Professional Advice", it's because we have. . . within Public Works, all the Building Codes. Building, and Plumbing, Electrical, ...(inaudible)... Energy Code, which isn't as well known. We have Grading Ordinances, Subdivision Codes and such a variety of team members, as you seen Ms. Otani play the most, because most of them are subdivision related.

But we have a lot of folks that are very conversational of the Building Codes. Where there's Building, Plumbing, Electrical, eventually you're going to get some kind of variance request or appeal request on those codes too.

So what I did was, I looked back at the criteria for the various variances, cause they're different. They're different from Title 19, that the Planning Department has. Even Title 16 and 18 are different. I kind of look through them and I try to put my selves in your shoes. I think it's almost . . . I'd also like to add that I have served on Boards similar to this and I understand the value of having staff reports.

So first looking at Title 16. Our Building, Plumbing, Electrical codes primarily all resort to the same criteria. That's kind of nice. We don't have to sit there and go through each one. Just kind of looking at the criteria, it's similar to what you've probably seen in the past. You just haven't had many of these types of applications.

The first one that talks about the strict application, operation enforcement of the code provision or provisions, would result in practical difficulty or unnecessary hardship to the applicant. Now that's the kind of thing I think of. I'm not sure how much input you get from us with that regard. That's really something that the applicant needs to talk to you folks about. Describing their personal experience and what they have, what their reasons are. So I'm not sure how much input we would provide in that particular area.

The second part is granting the variance should not be detrimental to public health, safety or welfare. I think that's one you'll probably going to look to us. And generally we would say, "Well here's our code", and they're asking not to be apart of the code. So what's our logical response? Well, there is going to be some impact to public health, safety or welfare but I think the key is whether or not it's detrimental.

So we would probably say, "Well, yeah adding two lots all in a row, is not that big of a deal." Perhaps is it not as safe to have 20 feet says 17 or 18 feet. Yeah, it's not as safe. But whether or not it's detrimental, I think detrimental might be a higher standard and that's something you'd probably have to look at. To me detrimental means, 'pretty bad' versus 'a minor inconvenience', somewhere in between there. So I think that's one area where we could, we're probably going to have to say, "It's not as safe." Right? It's not meeting our code. We'd probably have a discussion here at your meeting as to whether or not it's detrimental. Again, these are all Building Code related variances.

The third one talks about the granting is not injurious to the adjoining lots and the buildings there on. Again you might look to us, if someone wanted to build something that was very tall and maybe not as strong. Would you like to live next to that? Because that would be injurious, the lot next door? I think we could probably offer some advise for that. So ultimately whether it's injurious or not, is something you folks would have to decide.

And then finally the granting of the variance will not be ...(inaudible)... of purposes of the code in the public interests. But certainly relates of the purpose of the code, are our staff advice, "Here's the purpose of the Building, Plumbing, Electrical Code, that these sections are striding to achieve and give you advice in those areas."

Those are just my thoughts as relates to those types of codes. You guys just haven't seen many of those, I don't think. Have you? You guys had any Title 16 Variances or Appeals? Do you recall? We use to have what's called the Board of Code Appeals. A separate Board. And three years ago or so, when we last did, I think the Building Code. We eliminated the Board of Code Appeals. They had had three years without a meeting. Cause no one was making appeals. It was like, "If that's the Building Code, that's how I'll design it." So there hasn't been a lot of work in that area. So, we transferred to the Board of Variance and Appeals and you guys still haven't seen those. Doesn't seem like you've seen any of em.

Chairman Tanner: I don't think so. Maybe one.

Mr. Goode: One, yeah. Well, an example. Maybe someone wants to use a bamboo type material that maybe isn't under the code. Or another type of plumbing device or plumbing method that's not in the code. Could be something brand new. Could be something experimental. That might be something that will come before you.

Title 18, you've seen plenty of those. We just had one before this, and they...that has five criteria. Two of them had to with geography or special circumstances regarding a lot, which is common. We're not like in Fresno, where it's just like a flat piece of ground, everything looks the same. You know depending on where you are. There could be a lot of physical and special geography to consider. But that's something I don't necessarily know. We should check.

It's pretty obvious with pictometry. Most everybody, most Boards and Commissions are set up, so there's people from different areas. One person may not be familiar with Olinda Road, others might be. I think that's something the applicant needs to describe, and you folks need to digest and decide.

Another criteria, is a substantial property right. Again, I don't think that's something our department should chime in on. That's kind of how they feel about how they should use their property within the law. They get advice from Corp Counsel as to whether substantial property right or not. So I don't think that's something we would necessarily chime in on.

But we'd also have the same language we saw on the other one. Is it detrimental to the public health, safety and welfare? And again, this is I think one area you would be looking for our advice. So, whether it's in Civil Engineering, Surveying, Traffic Engineering, we could and I think we should be able to say something in that regard.

But whether or not it's detrimental, if the variance request seems so out of the norm, we might say it's detrimental. But, in general, I mean the applications that I've seen come through, cause I see your agendas every time. It seems like most folks are asking for minor tweaks on the codes. They're not asking for something really outrageous, maybe they have in the past. But, I could see in this area, you'd probably ask us and we'd say, "Well, it doesn't fit our code, so it's not going to be as safe." But whether or not it's detrimental or not, that's I think, what you guys get paid the big bucks for and we can help guide that I think. Well, you got paid what I got paid when I was on the

Board right?

Members: Laughter.

Mr. Sung: Maybe double that?

Mr. Goode: Yeah, double that. And finally the last one. Whether it has appropriate zoning, and Planning helps us on that. So they're in charge of zoning. Anyway, that's my thoughts on it. I shared some of it with staff prior. Seems to be in line with how...kind of how we do things currently, how we could adjust things in the future. That might be helpful.

Chairman Tanner: Yeah. And Mr. Goode, I think one of the challenges that we have, is on some cases, it's very clear on the staff analysis that it basically comes out and says, "The staff would not be opposed to the granting of this variance." There are others where it's very clear where the staff feels it would be very detrimental to approve this variance. And then there are others where, I can't get an indication either way. Or there's just no report at all and I think that's where we find it a little bit challenging, because where as we can understand the code and we can understand what they're asking for. We don't really bring expertise to put it all together and so that's why we like to have that and it makes a big difference.

We rely very much on it. If it's clearly pushing one way or the other. Than that's something that we all want to stop and make sure we understand exactly what you're getting at. Because we just don't want to make a mistake.

Mr. Sung: Just to share some thoughts. I don't know if it makes sense to elaborate more until after maybe Mr. Spence on behalf of the Planning side of things, makes any statements. Or whether to make an observation right now in response to what Mr. Goode has said.

But, I'll say first and foremost, I'm the newcomer here. I've been here on the Board for four meetings now I think. So, granted it's a very small sample of the types of staff reports and recommendations that I've seen from either departments. But, just by way of a . . . maybe a Malahini's perspective on the way that this documentation is presented to us for review and consideration.

And not speaking for the entire Board, but just for me and my own personal observations as a Board member as to what would be helpful to me and what is not as helpful in illuminating the situation. Is that? And using as two examples.

One would be the example that the Planning Department's Staff Report and Recommendation and that was regarding the Flatbread Pizza property in Paia and the rear setback issue. And so there was a Staff Report and Recommendation that was theirs.

And then the most recent Staff Report that we looked at for Mr. Herling project. And I think that we're not necessarily, I'm not necessarily looking for a staff recommendation that comes out strongly one way or another on each and every element of the five or six of however many elements in a variance ...(inaudible)...

But, what is not as helpful for me, is if a report simply says, "Here are the five elements, and the analysis is. . . Well, see the applicant's response." And I did look at the applicant's response and

that's good. But then, in essence if that's what the bulk of the Staff Report's says, then. . . not intending to criticize the authorship or anything. But, it doesn't add anything material for my analysis and my understanding of the situation. And as Mr. Tanner said, "We're not experts, we're volunteers from various backgrounds". And yes, we bring to the table some knowledge and expertise, but we're not even looking at the file for longer than the discrete number of hours that we've had a chance to look at the reports and application that were sent to us, a week or two in advance. And that's about it. But the people on the staff of this applicable department has been looking at the application and the file for much longer. It's intimately more familiar than we would be.

So, I think that to ask the Board members or staff, need to make a very rough determination based on the limited exposure of information available is perhaps not the best way to approach decision making. It would be helpful I think, with respect to the. . . let's just say these five elements.

I think that going down the list, rather than saying "See the applicant's response." It would be great, I think, if the department could go one at a time, through the elements and say, "We don't disagree", "We disagree" or "We have no opinion on this". To the extent there's disagreements we play out what the significant elements are ...(inaudible)...

And if you want to say, "We have no objections to the facts weighed out by the applicant". That's ok too. I understand that maybe for legal reasons, or for liability reasons, you don't want to be seen as endorsing or putting a perimeter on a statement of facts. If you haven't personally had the chance to verify that. That's ok, but any kind of guidance, more than just "See the application", would be helpful.

So going down those five, five items to the extent that there's an item as you put it, it would be more appropriate really for the applicant to say, "That's our position" and so officially the applicable department doesn't have a position on that. That's ok too. Again, at least I'm not expecting a out right firm statement of thumbs up or thumbs down for each and every element.

But, whatever you can do to help illuminate the processing of the situation forth would be much appreciated. I just felt very much in the dark, relatively speaking on certain aspects of the most recent decision. Where we're being asked to make a decision and we had to sort of tease out by a questioning of the various parties, whether a decision that we would make would essentially would run afoul of the purposes and procedures and policies of the various departments that might be affected by our decision. As well as trying to consider what the impact would be on the applicant and their neighbor. And the other citizens of Maui County. So it would be helpful, that's my (...inaudible...). Thank you.

Chairman Tanner: And I would add, that some of the applications that come in do have exactly what you mentioned. And then some have very little to nothing wrong.

Mr. Sung: Right.

Chairman Tanner: And I don't know what makes the difference why some get so much attention from staff and some get almost none. I don't know why that is. But it does make it difficult and I think to kind of standardize that would help us a lot. Because again, if we come down on the wrong side of a variance, it makes everybody's job more difficult from the Fire Department to the Planning office to everybody and we're not here to do that. We really want to avoid that at all cost.

Mr. Sung: Just to add my two cents. If I could award Mr. Spence or the member of his staff who prepared that recommendation or report for the Maui Flatbread, variance application I would put as many gold stars as could fit on the front page. Because it laid out for us, in a way the issues and the elements and so I at least wasn't struggling for. . . is this a ...(inaudible)... or is this actually make sense? It's been analyzed by the staff. The staff was like, "Ok, we agree with this part, and we disagree with that part." It was just well laid out, well thought out. And that's not to say that a staff analysis behind a report that just says, "See applicant's response", isn't equally well thought out and well analyzed. But it's in the communication aspect in letting us, the Board members know what the impacts are and what you are thinking, that is critical to what I think the consideration and deliberation in decision making of this Board. Thank you.

Vice Chairman Abbott: If I may. My opinion, everything that you've put on the five things. Everything that is brought up, it's a matter of semantics, because what you say in one sentence versus the verbiage what somebody else might say in the same sentence, doesn't. . . They're supposed to say the same thing, but they don't generally do.

I would say, the word specificity is extremely important, because right now. . . it's the old mushroom theory. We're all in the dark closet and every once in a while, somebody opens the door and throws in some more manure to feed us information.

As Raymond pointed out, sometimes we don't know which end is up. And we're trying to. . . and they expect us to make a decision, and I'm not condemning anybody, but the more information, the faster you can get it to us, the easier it is for us. Because I don't know how many of these people read these things before they get to the meeting or if they read them in advance at all. I go through every page, and I think there's several people here who know that already. And I ask questions, cause I don't know what's going on. So any help you can give us, is a help.

Chairman Tanner: Right. And the worse position we can be in, is to have that void of information and try to guess what you guys are thinking. And I don't like to be there, because that's when, you know, it may go the wrong way. And the applicants in many cases, for a lack of a better term, kind of in a desperate situation. They've been dealing with it for a long time, they're finally right at the end and they can almost grasp getting that variance and moving forward with their lives. So a lot of times, they're going to embellish and they're going to exaggerate and they're going to say things that may not be accurate.

And we don't have much else to fall on other than a feeling, of "Well, I don't think this department or that department likes it, or maybe they do, I just don't really know". And the question I have is, when the staff analysis is put together, is that after the applicant has filled out the criteria? So you know how they address the criteria, before you give yours?

Mr. Goode: Yes.

Chairman Tanner: Ok.

Mr. Goode: Yeah. I think in general and generally the way the process works, and this is a little different, in that these are exceptions from the Titles that we administer. But the BVA is run by the Planning Department. So someone's gotta run the BVA right? It's either going to be the Planning Department or us. But, Planning runs the BVA. So typically, they would receive an application and pretty much just forward to us. Right?

So the application would have all the applicant's information on it. We would review it internally with staff. There might be some discussion with me back and forth. Depending on the nature of the item. And then the Staff Report comes up and I sign it.

In general, the cultural difference between Public Works and Planning is the difference between Planners and Engineers. Ok? And some of that, you can see as the types of Staff Report that you're going to get from us, is going to be much more concise. Then a Planner like my friend and colleague here Mr. Spence. Usually has a lot more to say on things. But they also analyze, they're trained to. . . Typically in an application they'd send it out to a whole bunch of departments. Right? They might send it to Fire Department, Department of Health, I guess if it's related to a restaurant.

They get all sorts of different comments. Aggregate all those comments, put together a Staff Report and you're going to have a large body of things to read. Ours is pretty much, does it meet our code or not? Typically it doesn't. And we'd have a lot less to say and you're seeing that. And I understand where you're coming from, cause you're seeing both and you're trying to make important, lasting decisions. Which affect everybody.

So, we'll continue to hear what else you have to say, but we're absorbing this, and we'll. . . it will come back to you with some suggestions or you'll just see a different. . . you'll see some responses via those types of reports you would see.

Vice Chairman Abbott: If I may. All I ask you to do is remember one thing. Basically, this is a judicial committee and when we make a decision to deny or approve a variance. It's actually law and without the real information to make that decision. We're not sure.

Mr. Goode: Yeah, I'm well aware of that. I know it's a Decision and Order and that's why you have an attorney with you too. So, make sure. . . Mike's aware of that.

Vice Chairman Abbott: We still need every piece, every nugget of information.

Chairman Tanner: Right. And you know, I feel like the Board of Variance and Appeals has been pretty low key. And I like it that way. We make a couple of sizeable mistakes and we won't be low key anymore. I don't want that kind of attention at all.

I remember four-four and a half years ago or so, when I first got on this Board, and I've served on this Board in other counties before, not in Hawaii. And I can tell you, to say that Maui County is a very specialized place is. . . I mean you compared it to Fresno, and yeah, there's no comparison and there's no comparison to most places in the United States. So, it just makes our job that much more difficult.

When I first got on, I would hear comments from people, you know, in the back or leaving and it's just a rubber stamp, somebody that was opposed to their neighbor getting a variance or whatever, "these guys, they approve everything that comes before them" and things like that. I don't know how true that was.

As I continued coming, I didn't really see that, I didn't necessarily believe that. I've got a lot of respect for the Chairmen and Vice-Chairmen that came before me. And felt like the legal counsel has always been exceptional and I don't think any of us here, come in you know, "Poor farmer, if we don't give it to him, he's going to cry", no, we want to be accurate. I don't want to end up in a

situation where, something has to come back and it takes up a lot of county time. And we have to deal with it in a much more difficult way, then getting it right the first time. So, we certainly want to all do that. So, at this time, Mr. Spence?

Mr. William Spence: Good afternoon Board. This is very valuable for me to hear. Specifically what this Board wants is part of their Staff Reports and the kinds of information that you want to hear. Or you want in your Staff Reports. The. . . I don't attend your meetings very much, I have a desire to do so. But, Planning Department has eight Boards and Commissions that we staff as well as two Council Committees. It stretches some of us pretty thin.

All the same, that's not to say that your work is not important. It's extremely important, because you are granting variances from very particular laws. So what I'm hearing, some of our Staff Report, there's quite a bit information and other Staff Reports, there's not as much and you would like us to, one either provide you with more information or in for instance where we say, "See applicant's response" some sort of response to that to say, "We agree with it or disagree with it". But, would like it to take one step further and say, "This is why we agree with it"?

Members: Yes.

Mr. Spence: Ok. That's the direction I was hearing. And what we can do is, we meet bi-weekly with the different divisions within our department and this can be one of the things that we discuss. Is either standardizing or just seeing what information we should be putting in every Staff Report.

I don't sign these reports. I sign all the reports for other three Planning Commissions. So I'm really familiar with the SMAs and the Changes in Zoning and those things. Variances is pretty much with Zoning and Enforcement, and I think they do a pretty good job. But we can make some improvements with that.

So, we'll go over what. . . how they conduct it. Conduct the analysis and see what we can do to improve the reports.

Chairman Tanner: Thank you. Very much appreciate it.

Mr. Spence: Sure.

Chairman Tanner: We don't want to make a difficult job more difficult. But if we can save making some mistakes, I think it's going to make it worth it on our end.

Mr. Spence: It doesn't sound like you're asking for a lot. You're asking for some explanations. When you have a section of code and it says, "15 foot setback", well, "Why is that setback even there?" You know, is it to separate neighbors? Is it for health safety reasons, is it for whatever reasons it is, so fire trucks can get in for safety personnel? We can give you that information as well and go from there.

I will say, there's purposes for all the aspects of. . . at least for Zoning Code. They were written into law for reasons. And same thing with Building and Subdivision, Electrical etcetera. I can't speak for what Mr. Goode and his crew administer. But, I'll just say, some of our Zoning Codes are really old. Our Zoning Code started in the 1960's and was adopted then. We've been making improvements over the decades. But, it has been kind of a patchwork and some of it is just impractical anymore. And we just have gotten around to changing some of those things.

So, there may be times where we technically have to recommend denial but it's just because, it's... for whatever reason they don't meet the strict criteria. So, ok, we will discuss this internally and we'll see some changes.

Chairman Tanner: Thank you. Yes?

Mr. Sung: And just another observation, this is directed I guess to both departments. I think that we don't really need to speak in code or try to interpret certain language as code. I believe in forth right language to the extent that Corporate Counsel they may say, "Well, don't be so plain" then fine. Whatever you guys can do to help illuminate the situation for us. If you have an opinion, and it's a strong opinion, please say so. And that's not to say that you haven't been, but for example

I think it was the situation, not Mr. Herling's request but the one before that, that Mr. Arakaki represented last time for the fellow. There was also a road widening. That was down in Haiku, wasn't it? And Ms. Otani was working with him, right? And reading between the lines I could see that and forgive me Ms. Otani if I'm putting words into your mouth that you didn't say. Reading between the lines, I could sense you were recommending to him to seek the variance because there were just so much your department could do, under the parameters and the requirements that you had to follow.

But clearly, maybe whether it's the equity underlying the case or other circumstances, whatever it would make sense for the applicant to get relief from the Board and that's why, he came to us with the variance request. We could sort of sense. . . Or at least. . . not speaking for the Board. I could sort of sense that, but I was also reading between the lines of it, in order to get that and through the questioning and answering process, we were able to get more information.

But if it's at all possible for you to say, something to the effect of, "The legal requirements of the applicable position to the code as presently written and interpreted and historically enforced, would restrict our ability to do anything otherwise, but we believe that a variance approval would be appropriate or in order, or we would have no objection at all to that being done".

If that's the way that you want to express your opinion, then great. But that at least helps us not grasp for straws or frankly have fear, of "Gee are we doing something that runs a foul of what the department is actually really trying to do and trying to enforce?" Just be as plain speaking as you can to the extent that you're allowed to. That'd be great. Thank you.

Chairman Tanner: Ok.

Ms. Lesli Otani: Lesli Otani with Public Works. I think what the Board may be in touched on but has to understand, from at least from my point of view. And I've been staffing for Public Works to the BVA and other Boards for over 15 years. So I've seen this shift between, you know some Boards are more flexible then others. I've seen that occurrence and I've also seen. . . Where your Chair accurately described, where a lot of times, people come here and they're desperate for help.

And you know, as Dave touched on, you know, a lot of us are Engineers. We're very conservative, and we try to treat everyone fairly. So, these are the requirements and if, we are analyzing the Staff Report, I can tell you that 99 probably percent of the time. I'm going to say that they're not meeting the criteria. That it shouldn't be granted and you know our code.

I mean for us, we're enforcing the code. It's there for safety. So, it's very difficult for us to come

out verbally or in written form. And to say it's ok to disregard the code. So that's why sometimes for us, we don't say anything. Because we can't openly say, "Yes, please disregard it for this person, but not for the next gentlemen that's coming in.

So at the end, and also maybe a decade ago, this was when Dave wasn't our Director. But, we were actually told as part of Public Works, we couldn't give a recommendation. So that's when we started to take the stance that we were not objecting. So either we would at the end list our objections or we would just say we are not objecting. And that was the read between the lines that we were ok with it. When we say that we weren't objecting.

So, that's kind of where I'm coming from. Where I have to watch what I say. What I write. How I say it. This is all recorded, these are minutes. We have to be fair and unbiased to everyone. And so, you may want us to do a more detailed Staff Report. But, in my personal opinion, what will be stating in the Staff Report. I don't think, maybe may be to the spirit of what the Board is.

I feel like, we have rules we're strict. They come here for relief from our requirements. So now if I'm influencing the Board in that respect, so they're . . . you know they're dealing with strict requirements when they come to our office for Public Works. They're 10 years in and they're desperate and they come here and they're going to get the same treatment. In that sense.

Mr. Sung: Yeah. Thank you very much. That's good to understand your perspective and your process in doing that. There is a tension between two competing goals. Both of which are valid. I think that it really just boils down to anything that you might be able to do to shed light for us on this situation. It's helpful.

And frankly, if you came down and said, "We the staff would have strong objections or severe reservations of the granting of that" , that's helpful. If you say, "We have no objections", that's helpful to an extent but as long as we understand that -that's sort of the way of saying, "It's ok, it's really ok", and we might even say ...(inaudible)...

Ms. Otani: I can't speak for the rest of Public Works, but those here that know me or interact with me, I don't think that if we do have strong objections, it wouldn't be vocalized.

Vice Chairman Abbott: You also have to remember on one end, we get verbal testimony and verbal interaction with the applicant. That you guys don't get. And a lot of times there are extenuating circumstances which crop up during these hearings that you've never heard of. And it really makes our job even that much harder to figure out.

We're trying to obey the law, but which way do you sleigh and which way. . . until you get out everything that you want to say and everything that the nine of us have to say. We have to make a decision. And at sometimes it's not very easy. This is an off the wall comment. But have you ever thought of having a member of the Board here entertaining or attend any one of your meetings where this is discussed? I mean we are the Board that represents you?

Mr. Spence: We see our attorney moving.

Mr. Michael Hopper: Yeah. You probably cannot do that. It's a quasi-judicial Board, so if a member is going to get information, it's gotta be, if it's on a specific application. If you want to do

training, then certainly there could be a training. But if you're talking about reviewing a particular application, you couldn't have just one member of the Board. Unless, they were assigned just like a Hearing's Officer or something like that.?

So that's just the one problem with that. The staff is certainly free to do a presentation in front of the Board. With the members present and everything like that.

Chairman Tanner: Thank you. Do we have any other members that would like to speak at this time? The Fire Department, they don't speak unless spoken to. You have to drag it out of them don't you? They just want to go back to work.

Ms. Carolyn Cortez: We have the Fire Department here also.

Lieutenant Scott English: Good after noon Board members. Lieutenant English from the Fire Prevention Bureau. Like I said, basically the Fire Code comes under Title 16 in the Maui County Code. Fire Code adopted by the State and County is, normally lists a minimum safety requirements for access building, fire protection or just to get out of the building.

Like I said, on previous Staff Reports. . . I guess let me back up. One thing different from Lesli, our code does have some exceptions in there. For, say for access. . . if the water waste or grade, makes it impractical for a certain type of access our code, we can ask for more. Whether we sprinkle the buildings or access the fire alarm to get people out. Our code has that little section in there.

So once in a while when we do a Staff Report and you guys respond to us Recommendation. Yes, we recommend the variance because they gave us this extra. So we have that little flexibility on these variances.

But again, like I said, the code is like a minimum requirement. A lot of em is for access and water supply. In a perfect world, no fires, no emergency. When there's a fire and there's an emergency, fire, we have three companies. Automatically responding. Two engine companies rescue, us big tanker.

Small road more trucks right off the back. So basically, it's kind of crucial to get that 20 feet. It's minimum. We want 40 feet, but we had to come down to reality and get 20 feet. So that's the kind of thing that's always or should be in the back of your mind. Which we try to put forward in the Staff Report as far as why the code is there for.

Chairman Tanner: Ok. Thank you.

Mr. Matsuura: I have comment.

Chairman Tanner: Yes.

Mr. Matsuura: For me. I always talk about for my own comment I guess it would be. I really rely a lot on comments that come from the Fire Department, because of the health and welfare kind of issue. And because a lot of it , a lot of was what we were dealing with, deal with exactly that 20 foot or where that fire hydrants are and distances and things like that.

And I personally would really appreciate it if possible, if we could get some kind of written report from the Fire Department for most of these kinds of issues. Cause otherwise we end up with the same thing. That we'll have to request in the next meeting, that somebody from the Fire Department show up. Because like I said, for most of us, at least for me, having a personal response or a letter from the Fire Department, responding to some of these issues is important enough, that we would the decision. Or at least I would recommend deferral of a decision until we hear.

So, if we can get that kind of written report, or somebody show up specifically for that. I know it's hard because we meet twice a month. To have somebody sit here, it takes time.

Chairman Tanner: But you've got a point, that in the vast majority of deferrals that we have, are deferred pending information from the Fire Department.

Lieutenant English: I guess doing our Staff Report, if you want to ad-lib a little more about certain topics. . . is that what you're looking for?

Mr. Matsuura: You know in all honesty. I haven't seen a Staff Report from the Fire Department, I mean these past couple, I haven't seen them at all. And that's why we had to call a request. For somebody to come.

Lieutenant English: Personally, I've done a few, so I know it was done.

Mr. Matsuura: ...(inaudible)... at least I saw for the last month or two months. Or whatever it may be. Almost all of them never had a report. So something in writing, so that's why we had to request.

Lieutenant Davis:: Let me talk in a little bit. If we get a request for a Staff Analysis, we will provide it. But, if we don't get a request, we don't know if you guys are having a meeting. Like this last one, the one that I came up here for. For the Herling. We didn't get a request. Mr. ...(inaudible)... didn't contact us until yesterday.

Lieutenant English: What happened with this one was. The variance was to Lesli's code, Chapter 18. Our code is Chapter 16. So if we write something denying them to a certain requirement, then they would get a variance of Chapter 16 with a certain number. Then it would be our Staff Report to you folks.

But this one was a variance from Lesli's Title 18, it didn't come to us. That's why the Staff Report wasn't done.

Mr. Matsuura: So you guys don't get. . . unless it's specific to the Fire Code?

Lieutenant English: Yes. If we denied an applicant a certain application. Then we'll get a letter to them with a section of the code and why we're denying this and they come for a variance. Then they'll have to come for a variance to you folks with our section Title 16, with a certain section number. And then we'll write a Staff Report based on that.

Chairman Tanner: But if it's under 18, you don't even see it at all?

Lieutenant English: No. We comment on the subdivision, me and Lieutenant Davis comment on the subdivision requirement, enforcing our requirements. And if they're ok with it and they can meet our requirements and they have. . . you need a variance of Chapter 18, nothing will come to us as far as making a Staff Report.

Chairman Tanner: If it is under 16, how do you guys compile your report? Do you collaborate? Or is just one of you that does it? Or, how's that done?

Lieutenant English: Basically, Lieutenant Davis and I have different districts, as far as our responsibilities and review. Most of our requirements on Building Permits or Subdivision comes from DSA and we're like a reviewing agency that responds back to them for approval. Fire Department approval for either a Subdivision or Building Permits.

Ms. Otani: If I could clarify. If there's. . . If someone comes in and their requesting a variance from the Fire Code and the Subdivision Ordinance. There'll actually be two Staff Reports. So, will comment on our Code Section and Fire would comment on theirs.

And that occasionally happens, where someone will come in and they'll have several codes that they're trying to get a variance from. But usually for us, we might be ok the subdivision, but maybe it's in a rural area and they can't meet the Fire Code.

Or maybe we have a requirement which has nothing to do with access. It might be something else that they come from the subdivision. Maybe they don't want sidewalks. Lieutenant English may not. . . you know. . . that wouldn't impact him, but it impacts us.

Mr. Sung: This is also directed to Lieutenant English, Lieutenant Davis and the rest of the Fire Department. Just as an observation, again I'm the Malahini on the Board. I've done maybe four variance requests and a Declaratory Order Request.

But in looking at it. When the Fire Department requirements have been part of the analysis or case. It seems that the alternative to install sprinklers for structures up on it has been part of the suggested alternative incase the variance is granted. And I would just like to know, it would be helpful for me to know. If that when you suggest that as an alternative , that is really meant as that's almost as good, if not as good as the requirement for road widening or requirement for standpipes every so many feet or so forth.

But whether that 's well, "Gee... It's better than nothing, but that's not even close to second place result. That the best way really is to strictly enforce the requirements from standpipes every so many feet or strict requirement of both width of the road being a minimum number of feet and so forth.

Do you have anything that you can share with us? About how strongly feel when you offer sprinkler systems as a possible alternative?

Lieutenant Davis: Like I said earlier. Our Building Code has that exception, when you want to make a subdivision on the top of the mountain. And we can't really get a 20 foot wide road. Our code has the exception of, "okay then you give us something extra". And we take a look at it and, "We're ok with it." and we'll go with the variance with you folks.

Like I said, if different from Lesli, we have some exceptions in our code to allow certain things, that if you can't meet this, but if you give me these two things, we'll be ok with it.

Chairman Tanner: Thank you.

Mrs. Carolyn Cortez: Hi Chair. Carolyn Cortez, I'm the Supervising Planner for the Zoning, Administration & Enforcement Division. So, just to let you know. When an applicant submits a variance application, we take a look at it, and as Lesli said, there's sometimes multiple codes that the request variances from.

But in road widening, we do. . . so Title 18 they'll request a variance from Title 18. We will asks Lesli to do the Staff Report, because that is under her jurisdiction, that code. However, we do send a copy of that application to Fire for comment. And in those cases, they do provide us with comments and then we do include them with the packet for your perusal.

So, also we sometimes asks for comments from Department of Land and Natural Resources, different state departments and we also provide flood comments from FEMA. So we do look at the application and then determine which departments or divisions or agencies may have some kind of problem or comment or suggestion, when we take in an application. And then we provide those comments to you.

Chairman Tanner: Ok. Thank you. Yes, I would like to thank everybody for their time and participation here. I think it was very helpful and productive.

E. APPROVAL OF THE NOVEMBER 13, 2014 MEETING MINUTES

Chairman Tanner: So unless there isn't' anything further along those lines. We'll move on to the next item of the agenda. Which is the approval of the November 13, 2014 meeting minutes. Do I have a motion to approve?

Mr. Teddy Espeleta: So moved.

Chairman Tanner: Second?

Mr. Sung: Second.

Chairman Tanner: All those in favor of approving the minutes?

Members: "Aye".

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

VOTED: Motion to approve minutes..

**(Assenting: C. Abbott, P. DePonte, T. Espeleta, W. Greig, S. Matsuura,
R. Sung)**

(Excused: C. Fukunaga, H. Kihune)

Chairman Tanner: **Minutes have passed.**

F. NEXT MEETING DATE: January 22, 2015, Thursday

Chairman Tanner: The next meeting date is January 22, 2015.

G. ADJOURNMENT

Chairman Tanner: If there is no more business before the Board. We will **adjourn**. Thank you gentlemen.

There being no further to come before the Board, the meeting adjourned at 2:53 p.m.

Respectfully submitted by,

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

RECORD OF ATTENDANCE

Members Present:

Rick Tanner, Chairman
G. Clark Abbott, Vice-Chairman Abbott-Chairman
Patrick De Ponte
Teddy Espeleta
William Greig
Scott Matsuura
Raymond Sung

Members Excused:

Chad Fukunaga
Howard S. K. Kihune

Others:

William Spence, Director, Department of Planning
Carolyn Cortez, Staff Planner, Department of Planning
Paul Critchlow, Staff Planner, Department of Planning
Malia Balberdi, Staff Planner, Department of Planning
David Goode, Director, Department of Public Works
Lesli Otani, Development Services Administration

Board of Variances and Appeals
Approved Minutes-January 8, 2015
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Paul Haake, Captain, Department of Fire and Public Safety
Scott English, Lieutenant, Department of Fire and Public Safety
Peter "Kono" Davis, Lieutenant, Department of Fire and Public Safety
Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel