

**BOARD OF VARIANCES AND APPEALS  
REGULAR MEETING  
November 25, 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, 1:30 p.m., *Wednesday*, November 25, 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 Clark Abbott: The meeting of the Board of Variances and Appeals will now come to order, it 1:30 p.m. Let the record show we do have a quorum.

**B. PUBLIC TESTIMONY**

Chairman Abbott: As this is the only item, public testimony can be taken during the presentation.

**C. PUBLIC HEARING**

1. **PBR HAWAII & ASSOCIATES, INC. representing CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS**, is applying for a variance from Maui County Code (MCC), §19.08.050, "Height Regulations" to allow a steeple to be 58.77 feet in height, therefore exceeding the 30 foot height limit, for the Kahului Latter-Day Saints Church located at 125 W. Kamehameha Ave., Kahului, Hawaii; TMK (2) 3-8-017:044. (BVAV 2015/0018).

Chairman Abbott: Will the staff please read the agenda item and state the purpose for the application?

Ms. Chelsea Rabago: Chelsea Rabago with the Planning Department. *Reads item into record.*

Chairman Abbott: Thank you. Is there a presentation

Ms. Rabago: Yes.

Chairman Abbott: Thank you.

Ms. Rabago: Just to familiarize the Board with the location of this variance. We have an aerial view at the top, we have West Kamehameha Avenue and at the bottom, we have West Wakea Avenue and then you can see to the left we have the Queen Kaahumanu Center and then down below we have MECO and then to the right we have the U.S. Post Office to kind of get you familiarize to the location. And here's a close up of the actual subject parcel and the structure that we'll be discussing today. This is the view of the church from Lono Avenue and then the view from the West Kamehameha Avenue. And now Tom is going to share from PBR.

Chairman Abbott: Would you please your name into the record please?

Mr. Tom Schnell: My name is Tom Schnell. I'm with PBR Hawaii and Associates, we are a Planning and Landscaping Architecture firm and we are representing the Mormon Church in this matter.

Chelsea went through a lot of the stuff I was going to go through so I can go through it rather quickly. But this concerns the Kahului LDS Meetinghouse, Steeple Height Variance. The property is here, this is Lono Avenue, this is Kamehameha Avenue, there's a Chevron gas station here, there's a Kahului Union Church here and Maui Mall his here, Kahului Shopping Center and Kaahumanu Center is over here.

This is a view of the Meetinghouse Church, this is the main facility. This is Kamehameha Avenue; Lono Avenue is here so it's right on the corner. Here's another view and the Steeple would be right here; a view from the front, off Kamehameha Avenue, another view of the front. There used to be a steeple about right here that was part of the building but it wasn't on the center of the building but it was a free standing structure that was attached to the building but it was based on the ground.

This is the site plan, so this is the main property. There's Lono Avenue, Kamehameha Avenue and the steeple would be right here. This is an elevation of the Meeting House architectural showing the steeple. This is the north elevation, so looking from the north, there's the west elevation from the side, steeple is here.

Detail of the steeple: The steeple is 58.77 feet from the ground. Let me get into the old steeple and the new steeple so you have a little bit of background. We are requesting a variance from the residential height limit of 30 feet. The property is zoned residential. The proposed steeple height would be 58.77 feet. It replaces the original steeple; the original steeple was taken down in 2009 because it was structurally unsound. The Meeting House was built in 1961 and the steeple was put in shortly after that.

There's been a delay. Since they found out the steeple was structurally unsound in 2009 they had to allocate funds to build the new system. So we're about six years since we had the steeple. We found out that when the church was built in 1961 the zoning allowed residential - - zoning allowed churches outright and there might not have been the same height limit. But once we've removed the steeple and the zoning ordinance had changed in 1966 . . . when we removed 50% of the old steeple, we we're under the requirements of the new zoning code which has a 30 foot height limit in the residential district.

The steeple itself it's proposed to be 58.77 feet, almost 59 feet, that's from the ground up; and the reason for that is that the Mormon Church has certain standards that are proportional with different size meeting facilities. I have representatives from the church who can explain the proportionality or the need for that size of steeple if we need to- -

Right now I'm going to turn it over to President Reinhardt and he's the president of this stake and he's going to talk about the significance of the steeple in Mormon theology.

Mr. Ed Reinhardt: Thank you. Good afternoon Chair, members of the Board and staff. Just to give you a quick background on myself - -

Chairman Abbott: If I may interrupt you; are you going to be using the screen?

Mr. Reinhardt: Yes.

Chairman Abbott: If not, I'm going to turn the light on because I can't see.

Mr. Reinhardt: I'm sorry. I will be using the screen; there are three slides I'll be talking off of. My name is Ed Reinhardt I'm a lifelong residence of Maui County, except for the time that I went away to school and did some work on the mainland and then came back. I'm a member of the Church Jesus Christ of Latter-Day Saints. I'm a retired employee of Maui Electric Company where I served as president of the company, it's been about two and a half years and it's been awhile since I've been in this office or in this meeting room.

I represent a portion of our membership here in the Kahului, Hawaii State which is the leadership administers the church itself and below the state we have different congregation awards, so we have about eight different units that roll up to our state. This particular building is what we call as our stake center where we have our gathering and conferences, where all of our members meet on at least once every six months as a membership. However, our congregation meets in their particular buildings on a regular basis.

Just quickly going through what's on the slide- - the significance of the steeple. It identifies immediately as a meeting place of worship. It distinguishes it from other buildings and it denotes spiritual significance. Now I was in the mainland for a couple of months during the summer and I did attend other Latter-Day Saint meetings and although I had my GPS - - I was able to basically identify the neighborhood of where the meetinghouses where, the steeple itself was a significant point where I could identify that-that was the building for a Church of Jesus of Christ Latter-Day Saints. So it was easily recognized.

Also, I hear from members that are visitors to Maui County as they are able to recognize the buildings in Maui Lani and Lahaina because of the significance of the steeple and also in other parts of our community in Pukalani and Kihei.

Importance of steeple- -again I know you can read it but let me go through it. It is clearly part of the Mormon theology to reflect, in their buildings, the belief of ascension towards heaven. The steeples, by pointing towards heaven, serve the purpose of lifting Mormons' eyes and thoughts towards heaven. Part of our belief is the principals that are thought to us by Jesus Christ and it is important for us to be reminded on a regular basis.

Some of the covenants that we've made as members of the Church of Jesus Christ of Latter-Day Saints as we are able to teach our families the principals of the gospel and especially to our children our youth that we need to make sure that we follow the principals, be trustworthy and everything. To be able to make right choices and most of all to tell the truth as they are confronted with decisions that they have to make.

So it's important as we look at the steeple itself, it reminds us that our whole goal is to be part of a divine nature of an eternal family together and it's a constant reminder to us as we're able to drive toward the church building and also our meetings that this is our goal to be together as a family. As a church family and also as an immediate family with our brothers and sisters and parents and those that have really passed beyond in death.

That's part of what we strive for and that's part of what we recognize. Again, and this is all part of our hope as we are able to institute our practices that we do have a building which we have in the Kahului stake center but also an opportunity to complete the steeple which unfortunately had to be taken down because a deterioration of the structure itself. It started to become a safety hazard so a decision was made to take it down. So what the whole idea for us is that we want to make sure that we have a

steeple that will remind ourselves and remind our members that our goal is to work toward creating a wholesome family for ourselves and to reach an eternal family together where we believe that as families we can live together even after we die and so that is our goal to make we're able to come to a meetinghouse that represents the principals of the Church of Jesus Christ of Latter-Day Saints.

Thank you.

Chairman Abbott: Thank you Mr. Reinhardt.

Mr. Schnell: I'd just like to wrap it up a little bit by talking a little about the analysis. The steeple will not alter the essential character of the neighborhood. It's a pretty urban corner right there with the gas station across the street and another church, there are several churches in the neighborhood. Steeples are commonly associated with churches and other places of worship. The neighbors were sent notices; we sent notice to adjoining neighbors and neighbors across the street. We did not receive any objections. Legal notices were published in the Maui News and we don't have anybody here speaking against the steeple as far as I know.

We do have other members that would speak on our behalf if we have further questions. But in summary I'd just like to say, denying the variance is a substantial burden to the church. The steeple is needed as a symbol of the Mormon theology. The way it was explained to me was that other churches use a symbol of the cross as a symbol of their beliefs. In the Mormon theology the steeple serves a similar purpose as the cross.

Thank you. Any questions?

Chairman Abbott: Thank you.

**B. PUBLIC TESTIMONY (...continued...)**

Chairman Abbott: Any public testimony?

Mr. Boyd Mossman: Aloha. Sometimes it's best not to say too much, I've learned that. But right now I just wanted to say a few things in support of the Church of Jesus Christ of Latter-day Saints. My name is Boyd Mossman. I've lived here since 1971. I used to go to this paint shop on Alamaha side there and saw that guy over there selling paint with his dogs and stuff like that. It's been awhile, so we've known each other quite a while.

But in 1961 I noticed that's when this church was built, this facility and I was just graduating from high school in Honolulu, Kamehameha School for boys. But I know and have friends who helped build this church and I note from again the testimony that in 2009 the steeple went down because of safety hazards; so that building was sitting there for 48 years with a steeple that as I understand was 52 feet in height.

The church is now asking for a 55 foot steeple to replace that. The county and I recognize their position on this, is pretty much literal. They're looking at the law of the zoning ordinances and saying "dot, dot, dot- - no they don't comply, don't comply, don't comply." But if you look at that history, back in 1961 this thing is being built all along that way is a church row. So whoever provided the means for these churches to be built specifically set that section aside for churches, religious worship, members of the community to come and worship in their own churches. The height restriction at that point . . . I don't know what it was but all I know is this steeple was there for 48 years.

So it strikes me . . . there's three things that come to my mind. One, as Mr. Schnell just mentioned here, there's no opposition to this request. Secondly, all they're doing is that you allow them to replace a steeple, and in that respect, it's not a danger to the welfare or health or safety of anybody. Then thirdly, as I look at the comments on why it should not be granted, as I said earlier it's a literal interpretation, "says this- - you don't comply".

You as a Board, that's why you're here. You're a Board of Variances and Appeals. When people come up here and say, "you know this is not fair, this is not justice, this is not right, this is not correct", we're the community, we're asking your assistance in allowing this, this variance of three feet from the previous and maybe 25 feet from the current. You have the flexibility that the county doesn't have. So if the county is not going to approve it, then you have a right to approve it. In my opinion you have an obligation to approve it on the basis of what the community and in this case the LDS community considers is reasonable.

That's one of the requirements is that there be a reasonable - - I forget what the three reasons were that they did it, but I know one had to do with the physical aspects of this building. Is it unusual? Is it different? Is there something exceptional about it? Yeah, I'll tell you one thing it is. It's in a residential zone and it's a church and it was allowed to be there with a whole bunch of other churches. It's not a house; it's not the same as everything else in that whole county- - whole Kahului area. It is a church; it was specifically designated to be there. And who was it supposed to be there for? Anybody in the community who wished to come there to worship.

Then another one - -another objection is . . . did the church cause this whole problem? I didn't understand the response from the county. They seem to say that by building this, allowing this, you're creating the problem. I can't respond to that, I don't know what they're talking about. All I know is this thing fell down basically and they're just trying to put it back up.

The other one has to do with - -is it reasonable for you to say that "yeah, we should allow this", when in deed there's no good reason to allow it. I think basically words to that effect. And I gotta tell you this when it talks about reasonable. Is it reasonable? As a judge, I had tons and tons of cases that came before me in the criminal court and the question was, "did the prosecution prove beyond a reasonable doubt that the defendant was guilty?" and the jury would say, "Well, what is reasonable doubt?" And the attorneys would come and we would argue and argue and argue, and I always referred to the jury to another section, another instruction of the law that says, "You as the jury can use your common sense." Ladies and gentlemen of the jury consider that, common sense. Reasonable from one point of view and another point of view and another point of view, you can go on for hours and hours, I say "What is reasonable?"

I'm suggesting that common sense would tell you, to replace something that was sitting there for 48 years and allowed to be put back up with three additional feet, is not unreasonable. It is reasonable, and anybody with common sense would say, "What's the big deal? Where's the big opposition? What is it so bad for the community?" Those are the three observations that I wanted to make mention of.

The last comment I have has to do with the steeple itself. To me, the fact that it wasn't there for six years, so what? It took that long to get the funding, took that long to get the designing and so forth. It took a long time, yes. Well, members went to church during that six years and you might wonder, "Well okay, how come they're not crying or anything, are they?" Well let me ask you this, if you took a cross down from any other church around here and you told them, "That cross doesn't meet with our

requirements and so forth.” Do you think the members would stop going to church? They’re going to be deprived of that symbol that really makes them feel what the cross is supposed to make you feel.

In this case we have a steeple which basically to me is a spire and in this case this spire inspires the members; and they’re going to go to church with or without it until its back there to inspire them. It is an identification of the Church of Jesus Christ of Latter-day Saints. It is a representation of our desire to go to heaven. It is our belief that sure we’ll die someday, we’ll go down into the grave, but we will ascend, we will rise up. And that is why every single LDS Church in the world has aspire to inspire its members and anyone else who wants to investigate and find out what this religion is all about.

Those are my comments. I just simply recommend that you allow this appeal and this variance and that the members get back what was taken from them. Thank you very much. Any questions, I’ll be happy to answer.

Chairman Abbott: Thank you very much Boyd, I appreciate your comments. Any other public testimony? We’ll turn it over to the Board for questions and suggestions, requests. I have one request; do you have the rendition or a picture of the previous steeple and its location? The one that had to be disassembled as it were?

Mr. Schnell: I tried to look for a picture of it and I do not have a picture of it, I’m sorry. Maybe President Reinhardt could come up and express or share where it was- -

Chairman Abbott: Well, I having been here almost as long as Boyd has, I knew where it was. I was just wanting people here to see what it was and what you’re asking for now. I was trying to make a reference point. Questions, Howie?

Mr. Howard Kihune: Just one question, would it be in the same location as it previously was? Or a new location?

Mr. Schnell: Previously it was on this side. Now it’s going to be right on top.

Mr. Reinhardt: Previously it was right in this area here, the side view would be best to show. Previously it was right in this area.

Chairman Abbott: Please speak into the microphone Mr. Reinhardt.

Mr. Reinhardt: I’m sorry. Previously it was right in this general area. It had its own foundation, concrete blocks going up and again as the years went by the - -with the steel and reinforcement the steel expanded into corrosion which caused a cracking in the foundation itself.

Chairman Abbott: What was it wood, masonry?

Mr. Reinhardt: It was masonry yes.

Chairman Abbott: Masonry, ok.

Mr. Kihune: It’s not that far from the original location right?

Mr. Reinhardt: No, it’s not.

Mr. Kihune: 20 feet, 30 feet or something like that?

Mr. Reinhardt: Maybe about 20 feet.

Mr. Kihune: Thank you, I apologize I was a little tardy today so I didn't hear the earlier facts. Thank you.

Chairman Abbott: It's not the difference as to where it was, it's where it's going is what's alarming to me.

Mr. Reinhardt: It's actually going on top of the building.

Chairman Abbott: Right.

Mr. Reinhardt: And the building's been structurally fortified to hold the steeple.

Chairman Abbott: Max?

Mr. Max Kincaid: The materials that you're going to be using for this new steeple are going to be aluminum is that correct?

Mr. Reinhardt: Roger do you know?

Mr. Roger (*member of the public-did not sign in?*): Aluminum or fiberglass (...inaudible...)

Mr. Kincaid: One or the other?

(...inaudible discussion between member Kincaid and member of the public...)

Mr. Reinhardt: We have two different models; it could be aluminum or fiberglass. But it sounds like it's going to be fiberglass.

Mr. Roger: Maybe I can just add to that sorry. It's fiberglass but internally there's metal structures to give it - -

Mr. Kincaid: When you say metals are we talking aluminum?

Mr. Roger: I believe so. No, I'm trying to relate it to what we have in Maui Lani and Lahaina where we asked for stainless steel because of the corrosion and I believe in Lahaina they originally sent it out without stainless steel, we had to send it back to have it stainless steel reinforced because we're concerned about the corrosion. In fact, I believe this particular steeple is designed the same way with the stainless steel infrastructure inside the housing which is fiberglass

Mr. Kincaid: Ok, so the overall length of the steeple situated on the top of the roof is 30 feet.

Mr. Roger: From the ground to the top of the steeple is- -

Mr. Kincaid: No, no, no I'm not talking about that. I'm talking about from the top of the church to the top.

Mr. Reinhardt: Yes, it's about 30 feet right.

Mr. Kincaid: And the roof itself looks like it's about 30 feet either way right?

Mr. Reinhardt: Roughly yeah.

Mr. Kincaid: Ok and forward of the church are how far from the sidewalk?

Mr. Reinhardt: From the road to here?

Mr. Kincaid: Yes sir.

Mr. Reinhardt: I would say maybe another 30 feet probably. I'm not certain.

Mr. Kincaid: Ok. The reason I asked you that questions is it just seems to me that by the dimension wise, if this thing falls over is the only place that's really going to be hit- - be the church or other than- - ok, I'm good. Thank you.

Chairman Abbott: Any other questions?

Vice-Chairman Fukunaga: Are you familiar- - can you point out where the limit of the residential zoning is? What is the zoning in that area?

(...inaudible response...)

Vice-Chairman Fukunaga: So even across the street along Kamehameha Avenue, what's the zoning there?

Chairman Abbott: Can we get to that picture?

Mr. Schnell: I know this is all residential in here. I'm not certain what the zoning is here but there's a Chevron station here and - - Will do you know?

## **B. PUBLIC TESTIMONY (Continued...)**

Mr. Will Spence: Hi Board members, I'm Will Spence I'm the Planning Director. I thought this was an important enough issue to come down and visit you all. I'm happy to be here. I don't know what exactly the zoning is on the Chevron station, it's probably business. This property and I checked specifically this property and probably the other church properties in the area are zoned residential. And that's hold over from when comprehensive zoning was done for this area.

Since then and maybe this makes a difference in the deliberations- - is . . . they are designated on our community plans for public/quasi-public use. That's not zoning but it recognizes the use of these properties and at some point, at least my desire as director would be to do comprehensive zoning across the island. So when you come across things like this where the use is recognized by the community plan, the zoning should reflect the same thing.

This particular property would qualify for public/quasi-public '2' zoning. The main difference between public/quasi-public 1 and 2 is the height, maybe some other things. But if at some time we were to zone that property, the zoning height would be 90 feet. So with the zoning recognized - -in recognizing

the community plan if we followed up with zoning the height wouldn't be an issue at all. The problem comes with the residential zoning that was zoned eons ago.

To this department and I don't want the church to think otherwise. We're not adverse to a steeple being put on this building. It's the technicalities of our variance laws to say it doesn't meet the criteria, so we felt compelled, we had to recommend denial. But in the perfect world we would like this church to have a steeple. That's up to corporation counsel advise you and ultimately the decision of this Board. Thank you.

Chairman Abbott: Thank you. John, any comments from your area?

Mr. Rapacz: Yes thank you Mr. Chair. A couple of things, we just looked at the site plan that was attached to the application and just with a rough measurement it looks like it's about 50 feet from the property line to the what would be the forward part of the steeple base; so about 50 feet maybe slightly more than that, maybe 52.

Also, in the recommendation the Director's recommendation on page 10 of your report; it's a standard recommendation that says "If all of the criteria are not met, than the Board must or should deny" and that's the recommendation. And as the Director said, "strict application of the criteria would lead us to believe that it should be denied". Based on the application and the reference to the Religious Land Use, the Federal Act, which the applicant also mentioned in their presentation, even if the Board finds that the criteria are not met, and the variance ordinarily would be denied, if the Board also finds that denying the variance would be a substantial burden on the religious exercise or on the church, then it can still grant the variance any way based on the Federal Religious Land Use Act; and I repeat, even if it doesn't meet the criteria.

So, if denying the variance puts a substantial burden on the church, the Board can say, "No it doesn't meet the criteria. But, we are not allowed to place a substantial burden on the church; therefore we would approve the variance." So there is that option and that is not clearly outlined in the recommendation in the report.

Chairman Abbott: It would appear from what I gathered of what you just said John . . . and I may be wrong, in don't know. But it appears to my hearing and thinking that whether we deny it or approve it it's going to happen.

Mr. Rapacz: No, that's not what I'm saying. What I'm saying is that even if the Board would ordinarily deny it because it doesn't meet the criteria, the Board could still none the less approve it anyway, if it places a substantial burden on the church to not grant the variance.

So you could say, "No, it doesn't meet criteria one, two or three. But, if we deny this variance then there will be a substantial burden on the church, and we can't do that. Therefore, we're granting it even though it doesn't meet the criteria."

Chairman Abbott: Yea, Richelle please.

Ms. Thomson: Just to add a little bit to what John is saying. If you said the Religious Land Use and Institution Persons Act, which was referred to by the applicant in the application, then also the presentation. It's a Federal Law that similar to other situations such as cell towers governed by FAA Law, there's a Federal Overlay. So it's an additional layer of consideration.

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If you were going to deny this variance application, not only would you go through the county rules and your rules on variances but you would also have to analyze it under this RLUIPA. So to deny, the applicant has stated that denial would substantially burden their rights under their religious practice.

What you would need to do to deny is find the compelling government interests being served by this height regulation. So, is it safety? Is it welfare? What are the interests that the height regulation projects and is denying this variance request the only means available to you. So there's a couple of steps that you would have to go to in considering denial. Thank you.

Chairman Abbott: Thank you very much. Any other comments or questions?

Mr. Schnell: I might just add that the Board may be not this present Board, but the Board has granted similar approvals for at least two other LDS Meetinghouses or Churches on Maui. So there is precedence already to it- -

Chairman Abbott: I understand that, but those were put in the original Planning Department when they were built. They weren't added on afterwards, to the best of my knowledge.

Ms. Thomson: Just to clarify. Those I believe were variances granted by the BVA. You can consider that as relevant to your decision making- - which similar situations have been granted variances in the past but with every variance you should consider them individually.

Chairman Abbott: John can you answer if those were put before the Board before? Well, that's pulling your memory back a long time- -

Mr. Rapacz: Thank you Mr. Chair. I was just double checking if the information was in the report. On the top of page 10 of your report, it says that "The Department recognizes that the Religious Land Use and Institutionalized Persons Act may be applicable to the applicant's claim", the Board has previously granted variances for both the Church of Jesus Christ of Latter-Day Saint, Maui Lani Stake Center and Lahaina Latter-Day Saints Meetinghouse. So on two occasions the Board has granted variances for heights of steeples.

Chairman Abbott: Thank you, I see it here.

Mr. Rapacz: Thank you.

Chairman Abbott: Any further discussion or questions or anything for anybody? If not- -shall we have a motion?

Mr. Kihune: I'd like to make a motion.

Chairman Abbott: Go ahead.

Mr. Kihune: **Motion to approve** the variance to include the recommendation . . . the four conditions on page 10 in the staff report and me saying that I believe that not approving the variance would create hardship for the church and the worship for itself.

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

Mrs. Juanita Reyher-Colon: I second the motion.

Chairman Abbott: We have a second.

Ms. Thomson: Just for clarification, Mr. Kihune are you recommending to adopt the rationale given in the applicant's application and as presented at the hearing as a Findings of Fact in support of granting the variance?

Mr. Kihune: I am yes, correct.

Chairman Abbott: Thank you. Ok, we have a motion and a second, any further discussion.

Ms. Thomson: One more thing.

Chairman Abbott: Ok.

Ms. Thomson: On previous variance applications for church steeples- - the Board has reduced the amount of insurance required; it's completely up to you based on your assessment of the risk to the county.

Chairman Abbott: Do you wish to hold to all of the terms that you put into the motion? Including the million dollars? Or do you wish to withdraw it from the motion and make another motion.

Mr. Kihune: I think we need to know what that reduction was or if there was elimination of it first of all.

Ms. Thomson: I know that in one of the variances it was reduced down to 10,000 and my understanding though is the applicant has requested that. So, I don't know if they have a feeling on that one way or another.

Mr. Schnell: We would like it reduced if possible yes thank you.

Chairman Abbott: I'm sorry I didn't hear. What was that?

Ms. Thomson: The applicant said they would like that reduced if possible.

Chairman Abbott: Ok. Reduced if possible? Ok. Mr. Spence, you have a question or something?

Mr. Spence: Technical question, if we go ahead and rezone this property at some point and to where the height is already allowed, would that alleviate the need for any insurance at all? Because technically there's no variance from county code; it would seem to me that requirement for any insurance should disappear. That's my thought.

Ms. Thomson: That's an excellent point. It wouldn't automatically disappear so it would continue on even though it may not be relevant at that point or required so probably if the Board wishes, keep the insurance as is, but add a provision that if zoning changes such that the variance would no longer be required- - the height variance no longer required than the requirement for insurance is eliminated on that same date or something like that.

Mr. Spence: That's exactly where I was going with that. Thank you.

Chairman Abbott: Ok.

Mr. Schnell: In addition the requirement now is a million dollars of insurance, so if that amount could be reduced that would be substantial or significant to the church at this point because all though the director would like to have comprehensive rezoning, I don't know at what point that would happen. So until that time it would be good to have a reduced amount of coverage if possible.

Chairman Abbott: Ok.

Mr. Kihune: Let me ask- -

Mr. Schnell: The church is asking for 10,000 on the insurance if that's possible.

Mr. Kihune: I'd like to **amend my motion to add a reduction of insurance to \$10,000.00.**

Chairman Abbott: Ok.

Ms. Thomson: And to be eliminated if rezoning - -

Mr. Kihune: And to be eliminated should the property ever be rezoned to quasi-public II.

Vice-Chairman Fukunaga: Second.

Chairman Abbott: You're seconding the amendment?

Vice-Chairman Fukunaga: Yeah.

Chairman Abbott: Ok. We have a motion and we have a second, any discussion?

Mr. Rapacz: Mr. Chair?

Chairman Abbott: John?

Mr. Rapacz: Sorry, thank you. If I can just clarify because we'll be writing the Decision and Order, that Mr. Kihune's basis of his motion was that denying the variance would place a substantial burden on the religious expression of the church. Is that correct?

Mr. Kihune: Correct.

Mr. Rapacz: Ok. Thank you.

Chairman Abbott: Any further discussion? I'm going to call for a vote. All those in favor?

Mr. Kihune: "Aye."

Vice-Chairman Fukunaga: I'm sorry before we vote . . . are we voting on the amendment or the- - ?

Ms. Thomson: Just the amendment first.

Chairman Abbott: All those in favor of the amendment?

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Members: "Aye."

Chairman Abbott: Any opposed? No, ok. Now let's take a vote on the original which includes -

It was moved by Mr. Kihune seconded by Vice-Chairman Fukunaga then,

**VOTED: Motion to amend original motion to the reduction of insurance from \$1million dollars to \$10,000 dollars.**

**(Assenting: G. Abbott, C. Fukunaga, T. Espeleta, H. Kihune, J. Reyher-Colon)**

**(Excused: P. DePonte, W. Greig, R. Sung)**

Mr. Teddy Espeleta: Can we just clarify please Mr. Chair?

Chairman Abbott: Please.

Mr. Espeleta: The amendment was the insurance amount, which is \$10,000.00?

Chairman Abbott: Correct.

Mr. Espeleta: Now we're going to go the whole motion of allowing the steeple to be built at that height?

Chairman Abbott: Yes, with the reduction of the insurance. John, does that meet the amount of information you need for your records?

Mr. Rapacz: Yes.

Chairman Abbott: Richelle, are we in good condition?

Ms. Thomson: I think we're clear.

Chairman Abbott: Ok, then I will call for a vote. All those in favor of granting the variance say "Aye".

Members: "Aye".

Chairman Abbott: Any opposed? As I'm not allowed to vote, I can't say. The **variance is granted**. Thank you very much.

Mr. Schnell: Thank you very much.

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

**VOTED: Motion to approve the variance as recommended in the staff report and also to include the reduction of insurance from \$1million dollars to \$10,000 dollars.**

**(Assenting: G. Abbott, C. Fukunaga, T. Espeleta, H. Kihune, J. Reyher-Colon)**

**(Excused: P. DePonte, W. Greig, R. Sung)**

D. APPROVAL OF THE AUGUST 27, 2015 MEETING MINUTES

Chairman Abbott: We have the approval of the August 27<sup>th</sup> and September 10<sup>th</sup> meeting minutes. Any additions or corrections let's take the August 27<sup>th</sup> meeting first.

Mrs.: Reyher-Colon: I wanted to make a motion to approve the August 27<sup>th</sup> meeting minutes.

Mr. Espeleta: Second.

Chairman Abbott: Ok. Motion to approve the minutes; we have a motion and a second. Any discussion? All in favor?

Members: "Aye."

Chairman Abbott: Any opposed? **Minutes approved.**

It was moved by Mrs. Reyher-Colon seconded by Mr. Espeleta:

**VOTED: Motion to approve the August 27, 2015 meeting minutes**

**(Assenting: G. Abbott, C. Fukunaga, T. Espeleta, H. Kihune, J. Reyher-Colon)**

**(Excused: P. DePonte, W. Greig, R. Sung)**

E. APPROVAL OF THE SEPTEMBER 10, 2015 MEETING MINUTES

Chairman Abbott: Ok, let's take now the approval of the September 10<sup>th</sup> meeting minutes. Again, any questions, suggestions, changes or alterations?

Mrs. Reyher-Colon: I move to approve.

Chairman Abbott: We have a motion to approve.

Mr. Kihune: I wasn't here so-

Chairman Abbott: Ok and I can't second so -

Mr. Espeleta: Second.

Chairman Abbott: Ok, it's been moved and seconded. All those in favor say "Aye".

Members: "Aye".

Chairman Abbott: Any opposed? Thank you. **Minutes approved.**

It was moved by Mrs. Reyher-Colon seconded by Mrs. Reyher-Colon then:

**VOTED: Motion to approve the September 10, 2015 meeting minutes**

**(Assenting: G. Abbott, C. Fukunaga, T. Espeleta, H. Kihune, J. Reyher-Colon)  
(Excused: P. DePonte, W. Greig, R. Sung)**

F. NEXT MEETING DATE: DECEMBER 10, 2015

Chairman Abbott: Next meeting is the December 10, 2015.

G. ADJOURNMENT

Chairman Abbott: Meeting adjourned.

There being no further to come before the Board, the meeting adjourned at 2:20p p.m.

Respectfully submitted by,  
CHALSEY R. K. KWON

*Chalsey Kwon*

Secretary to Boards & Commission II

**RECORD OF ATTENDANCE**

**Members Present:**

G. Clark Abbott, Chairman  
Chad Fukunaga, Vice-Chairman  
Teddy Espeleta  
Howard S. K. Kihune  
Juanita Reyher-Colon  
Max Kincaid Jr.

**Excused:**

Patrick De Ponte  
William Greig  
Raymond Sung

**Others:**

John Rapacz; Planning Program Administrator, Department of Planning  
Chelsea Rabago, Staff Planner, Department of Planning  
Chalsey Kwon, Secretary to Boards & Commission II, Department of Planning

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Richelle Thomson, Deputy Corporation Counsel, Department of the Corporation Counsel