

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

Members: Juanita Reyher-Colon (Chair), Raymond Sung (Vice-Chair), Max Kincaid Jr., Jeffrey Borge, William Kamai, Trisha Egge, Ray Shimabuku, Emmanuel Baltazar, Stephen West

AGENDA
(HYPERLINKS TO MEETING MATERIALS ADDED)

DATE: **February 13, 2020**

TIME: 1:30 p.m.

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

A. CALL TO ORDER

B. **CONSIDERATION AND ADOPTION OF DECISIONS & ORDERS**

1. **TAMURA'S MARKET WAILUKU**, application for a variance from Maui County Code, §12.08.100 (G) related to construction of a second driveway to be used for delivery trucks and vans, as well as an emergency exit for property located at 230 IMI KALA DRIVE, WAILUKU, HI 96793; TMK: (2) 3-4-020:078 (Hearing date 2/28/2019)

[Decision & Order](#)
[Variance Application](#)
[Director's Report with Exhibits](#)
[Transcript of hearing](#)

2. **JAMIE LYNN LAWRENCE for LAWRENCE PATIO & PLANTER**, application for a variance from Maui County Code §19.08.060 related to front, side, and rear yard setbacks in order to allow unpermitted structures to remain in the setback on property located at 78 AUOLI DRIVE, MAKAWAO, HI 96768; TMK: (2) 2-4-022:004 (Hearing date 2/14/2019)

[Decision & Order](#)
[Variance Application](#)
[Director's Report with Exhibits](#)
[Transcript of hearing](#)

C. **APPEAL OF DIRECTOR'S DECISION – Hearing on Motions**

1. **IN THE MATTER OF THE APPEAL OF MARIAN PROSSER, ET AL.** (aka Affected Residents of Haiku), regarding zipline activity within the County's Agricultural District for property located at 2065 Kauhikoa Road, Haiku, Hawaii, Tax Map Key (2)2-7-012:086 from (1) the Department of Planning's Letter dated December 6, 2018 and (2) the Settlement Agreement dated December 6, 2018, related to Maui County Code §19.30A.050. (BVAA 2019/0015)

a. [Intervenor D&S Ventures LTD, LLC's Motion to Recuse or Disqualify Hearing Officer](#)

i. Appellants' Memorandum in Opposition

This motion was heard on January 9, 2020, and action was deferred by the Board. No further oral argument will be allowed.

If a Board member was not in attendance at the January 9, 2020, hearing, please review the meeting audio at the link below (written transcripts will be provided to you at the meeting):

<https://www.mauicounty.gov/DocumentCenter/View/121045/192020-BVA-Meeting-Audio-Recording>.

b. Intervenor D&S Ventures LTD, LLC's Motion to Dismiss the Notice of Appeal as to the Request for Reversal of the October 30, 2018, Stipulation

i. Appellants' Memorandum in Opposition

Intervenor D&S Ventures, Ltd., LLC, will be allowed 10 minutes to provide oral argument on the motion. Appellee Director of Planning and Appellants each will be allowed 10 minutes to provide oral argument on their opposition or position. Each party will be allowed 5 minutes for rebuttal.

c. The following motions were heard by the hearings officers on August 27, 2019, and were referred to the full Board on its October 24, 2019, meeting, at which the Board declined to take action and held decision making on the motions in abeyance. The intention of the Board is to take action on the following motions:

i. Appellee Director of Planning's Petition to Dismiss Appeal

1. Appellee Director of Planning's Supplemental Memorandum in Support of Motion to Dismiss

ii. Intervenor D&S Ventures LTD., LLC's Motion to Dismiss Appeal

iii. Appellant's Memorandum in Opposition to Motions to Dismiss (Consolidated)

iv. Appellee Director of Planning's Reply to Appellants' Opposition to Appellees' Petition to Dismiss Appeal

v. Intervenor D&S Ventures Ltd., LLC's Reply Memorandum in Support of Its Motion to Dismiss Appeal

vi. Intervenor D&S Ventures Ltd., LLC's Objection and Motion to Review Recommendation to Grant in Part and Deny in Part Motions to Dismiss

vii. Transcript of August 27, 2019, hearing

Appellee Director of Planning and Intervenor D&S Ventures, Ltd., LLC, will each be allowed 10 minutes to provide oral argument on their motions. Appellants will be allowed 10 minutes to provide oral argument on their opposition. Each party will be allowed 5 minutes for rebuttal.

d. The Board may consider appointment of a hearings officer.

e. A pre-hearing scheduling conference.

E. ADJOURNMENT

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

ANY PETITION TO INTERVENE AS A FORMAL PARTY IN THE PROCEEDINGS BEFORE THE BOARD MUST CONFORM TO RULE 12-801-18, RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF VARIANCES AND APPEALS, AND BE FILED WITH THE BOARD AND SERVED UPON THE APPLICANT WITHIN A REASONABLE TIME BEFORE THE MEETING IN WHICH THE SUBJECT MATTER OF THE INTERVENTION IS TO BE HEARD. THE ADDRESS OF THE BOARD IS NOTED BELOW.

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

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

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