

BOARD OF APPEALS
COUNTY OF HAWAI'I

MINUTES
MAY 8, 2009

The County of Hawai'i Board of Appeals met in regular session at 10:00 a.m. in the County of Hawai'i, Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawai'i, with Vice-Chairman Peter Hendricks presiding.

PRESENT: Peter Hendricks
David Drury
Charlene Hart
Karen Maedo
Kim Tavares

ABSENT & EXCUSED: Joel Gimpel

Renee Schoen, Counsel to the Board
Alice Kawaha, Staff to the Board

The Chair introduced the Board to members of the public.

PUBLIC STATEMENTS At 10:01 a.m., the following individual provided testimony under public statements regarding the appeal of DAVID OWENS (BOA 08-000072):

TIP DAVIS (SEE EXHIBIT A)

BOA 08-000072 The Board took this item up at 10:03 a.m. with
DAVID OWENS six people from the public in attendance.
DOWNTOWN HILO,
SOUTH HILO

PETITIONER: DAVID OWENS (BOA 08-000072) - Continued hearing on the Petition for Variance from the Building Code requirements relating to doors, fire wall, and projection and clearance. The subject property is bordered by Keawe Street, Mamo Street and Kilauea Street, adjacent to the Garden Exchange commercial building, Downtown Hilo, South Hilo, Hawai'i, TMK: (3) 2-3-11:16.

(SEE EXHIBIT B)

PUBLIC STATEMENTS At 11:04 a.m., the following individual provided testimony under public statements regarding the appeal of KENNETH FUJIYAMA (BOA 09-000075):

THEA A. KUMOVE (SEE EXHIBIT C)

BOA 09-000075
KENNETH FUJIYAMA
PANAWEA FARM LOTS,
SOUTH HILO

The Board took this item up at 11:07 a.m. with six people from the public in attendance.

PETITIONER: KENNETH FUJIYAMA (BOA 09-000075) - Appeal of Decision by the Planning Director dated February 12, 2009, Notice of Violation and Order (ZCV 2009-017E), operating an unpermitted Charter School in an agricultural zone without an approved Special Permit. The subject property consists of 22.35 acres and is the site of the existing Nani Mau Gardens, Panaewa Farm Lots, South Hilo, Hawai'i, TMK: (3) 2-2-48:13.

The Chair stated that the petitioner has withdrawn this appeal.

BOA 09-000076
MARYE LYNN
GILMORE
HOVE,
KA`Ū

The Board took this item up at 11:14 a.m. with six people from the public in attendance.

PETITIONER: MARYE LYNN GILMORE (BOA 09-000076) - Appeal of Decision by the Planning Director dated March 4, 2009, relating to Determination of Pre-Existing Lots. The subject properties consist of approximately 43,595 square feet and is located at the corner of Lotus Blossom and Sea Breeze Parkway, Hawaiian Ocean View Estates, Ka`ū, Hawai'i, TMK: (3) 9-2-12:11 and 73.

Ms. Kawaha stated this item has been rescheduled for the July 10th meeting in Hilo.

MINUTES

The Board took up the following minutes at this time, 11:15 a.m., with two people from the public in attendance.

January 16, 2009 – It was moved by Ms. Maedo, seconded by Ms. Tavares, and carried unanimously by all members in attendance that the minutes be approve.

March 13, 2009 – It was moved by Ms. Maedo, seconded by Ms. Tavares, and carried unanimously by all members in attendance that the minutes be approved.

EXECUTIVE
SESSION

The Board of Appeals went into executive session at this time, 11:17 a.m., by a motion made by Mr. Drury, seconded by Ms. Maeda, and unanimously carried by a voice vote of all members in attendance. The Board convened in executive meeting regarding the following matters, pursuant to Section 92-5(a)(4), Hawaii Revised Statutes (HRS) and Rule 1(e), Hawaii County Board of Appeals, Rules of Practice and Procedure, for the purpose of consulting with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.

- 1) Circuit Court Appeal on Kamakani `O Kohala `Ohana vs Hawai`i County Board of Appeals, Daryn Arai in his official capacity as Hawai`i County Planning Director and Kohala Preserve Conservation Trust LLC – Civil No. 09-1-038 K.
- 2) Supreme Court Appeal on Christopher J. Yuen, Planning Director, County of Hawai`i v. Board of Appeals of the County of Hawai`i, and Marlene E. Calvert – Civil No. 06-1-0184.

The Board came out of executive session at 11:30 a.m. by a motion made by Mr. Drury, seconded by Ms. Hart, and unanimously carried by a voice vote of all members in attendance.

ANNOUNCEMENTS

Staff announced the next meeting is scheduled for June 12th in Kona.

ADJOURNMENT

There being no further business, the Chair declared the meeting adjourned at 11:31 a.m.

Respectfully submitted,

Sharon M. Nomura, Secretary

A T T E S T:

Peter Hendricks, Vice-Chairman
Board of Appeals