

BOARD OF APPEALS
COUNTY OF HAWAI'I

MINUTES
AUGUST 10, 2007

The County of Hawai'i Board of Appeals met in regular session at 10:30 a.m. in the County of Hawaii, Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawai'i, with Chairman Valta A. Cook presiding.

PRESENT: Valta A. Cook
Peter Hendricks
Joel Gimpel
Diane Gentry
Kim Tavares

ABSENT & EXCUSED: David Drury
Kelly Ann Soo

Ivan Torigoe, Counsel to the Board
Alice Kawaha, Staff to the Board

PUBLIC STATEMENTS There was no one wishing to make a public statement at this time.

All those testifying were duly sworn in.

The Chair at this time stated that the first item on the agenda, the petition of Jalene Ramona Hitzeman (BOA 06-000036), will be taken up as Agenda Item No. 7.

BOA 06-000020
ASSOCIATION OF
APARTMENT OWNERS
OF PUNAHELE
PROFESSIONAL BUILDING
PUNAHOA
SOUTH HILO

The Board took this item up at 10:31 a.m. with approximately 7 people from the public in attendance.

PETITIONER: ASSOCIATION OF APARTMENT OWNERS OF PUNAHELE PROFESSIONAL BUILDING (BOA 06-000020) - Adoption of Findings of Fact, Conclusions of Law, and Decision and Order regarding the Appeal of Decision by the Planning Director dated March 2, 2006 Notice of Violation and Order (ZCV06-030E) relating to landscaping requirements as set forth in Ordinance No. 95 33 and Final Plan Approval. The subject property consists of approximately 59,108 square feet and is located on the makai side of Komohana Street at Puuhonu Place, Punahoa, South Hilo, Hawai'i, TMK: (3) 2-3-35:42.

The Chair stated this item has been continued at the request of the petitioner's attorney.

BOA 07-000040
GELOCAG AND AOA
PUNAHELE
PROFESSIONAL BUILDING
PUNAHOA,
SOUTH HILO

The Board took this item up at 10:32 a.m. with approximately 7 people from the public in attendance.

PETITIONER: GELOCAG AND AOA PUNAHELE PROFESSIONAL BUILDING (BOA 07-000040) - Adoption of Findings of Fact, Conclusions of Law, and Decision and Order regarding the Appeal of Decision by the Planning Director dated December 22, 2006 First Recurring Violation (ZCV06-150E), relating to operation of a vehicle parking lot in a Single-Family Residential Zoned District. The subject property consists of approximately 9,230 square feet and is located along the south side of Punahoe Street, Punahoa, South Hilo, Hawai'i, TMK: (3) 2-3-35:18.

The applicant's representative, Nancy Cabral, and the Planning Director's representative, Amy Self, were in attendance.

The Chair stated that at the last meeting the Board voted to reverse the decision of the Planning Director and as Ms. Cabral was not an attorney the parties were directed, and have submitted, proposed findings of fact, conclusions of law and decision and order in accordance with the Board of Appeals Rule 8-13.

In response to the Chair's inquiries, Ms. Cabral requested her findings be adopted alone or in addition to the Planning Director's proposed Findings of Fact, Conclusions of Law and Decision and Order; and Ms. Self requested the Board adopt the Planning Director's proposed Findings of Fact, Conclusions of Law and Decision.

It was moved by Mr. Gimpel and seconded by Mr. Hendricks that the Planning Director's proposed Findings of Fact, Conclusions of Law and Decision and Order be adopted. Ms. Cabral at this time stated that she felt her proposed Findings of Fact were correct and they are in many ways more detailed than those provided for by the Planning Director. Ms. Cabral requested the Board delete the ending portion from Findings of Fact No. 12, as she felt it was misleading since the other parties did not act in good faith to a stipulated agreement. It was moved by Ms. Gentry and seconded by Ms. Tavares that the motion be amended to delete, "even though Appellant had agreed at the October 23, 2006 hearing before the Board to close the parking lot and cease further use." Mr. Gimpel accepted the amendment; however, he stated for the record that there was an agreement that was later breached by the other parties. Mr. Gimpel said the removal does not indicate that the Board is holding now that there was no agreement in the first place, to which Ms. Cabral agreed but expressed concerns of quotes taken out of context and used against her client. A voice vote was taken on the amendment to the motion; and motion was unanimously carried by a voice vote of all Members in attendance. A roll call vote was taken on the motion, as amended, and motion carried with five ayes (Gimpel, Hendricks, Gentry, Tavares and Cook) and two absent and excused (Drury and Soo). Chairman Cook stated he has reviewed the record and felt qualified to vote on the motion.

BOA 07-000041
JASON K. DELUZ &
MELITA DELUZ DBA
J. DELUZ AUTO
BODY REPAIR
PAALAEA TO LAUKA,
HAMAKUA

The Board took this item up at 10:35 a.m. with approximately 7 people from the public in attendance.

PETITIONERS: JASON K. DELUZ & MELITA DELUZ DBA J. DELUZ AUTO BODY REPAIR (BOA 07-000041) - Appeal of Decision by the Planning Director dated February 5, 2007 Notice of Violation (ZCV06-158E), relating to Operation of an Auto Body Repair Shop in an Urban district. The property consists of approximately 2.559 acres and is located on the east side of Lehua Street (former site of macadamia nut factory), Paalaea to Lauka, Hamakua, Hawai'i, TMK: (3) 4-5-2:46.

The Chair stated this matter has been continued as requested by the applicant's attorney.

Ms. Kawaha stated for the record that Charles and Cindy May have submitted a petition for intervention dated July 29, 2007, which the Board will be considering when this item is placed on the October agenda.

BOA 06-000035
PATRICK JOHN
LAWRENCE, JR.
KUHUA,
SOUTH HILO

The Board took this item up at 10:36 a.m. with approximately 7 people from the public in attendance.

PETITIONER: PATRICK JOHN LAWRENCE, JR. (BOA 06-000035) - Appeal of Decision by the Planning Director dated October 27, 2006 Notice of Violation and Order (ZCV06-130E), relating to operation of a contractor's base yard within an Agricultural District. The property is located on the mauka side of Mamalahoa Highway, approximately 600 feet north from the intersection of Mamalahoa Highway and Honomu Road, Kuhua, South Hilo, Hawai'i, TMK: (3) 2-8-15:24.

The Chair stated this item has been continued at the request of the applicant's attorney.

BOA 07-000039
CARNOR J. SUMIDA
HAWAIIAN PARADISE
PARK SUBDIVISION,
PUNA

The Board took this item up at 10:37 a.m. with approximately 7 people from the public in attendance.

PETITIONER: CARNOR J. SUMIDA (BOA 07-000039) - Appeal of Decision by the Planning Director dated December 7, 2006 Notice of Violation and Order (ZCV06-100E), relating to operation of a semi-truck and trailer baseyard within an Agricultural District. The

property is one acre in size and located approximately 135 feet east from the intersection of Paradise Drive and 28th Avenue, Hawaiian Paradise Park Subdivision, Puna, Hawai'i, TMK: (3) 1-5-20:80.

The Chair stated this item has been continued at the request of the applicant's attorney.

Ms. Kawaha stated for the record that James Paulsen has submitted a petition for intervention dated July 20, 2007, which the Board will be considering when this item is placed on the October 12, 2007 agenda.

The Chair then stated that the petition of **Rex A. Ramsey (BOA 07-000044)** will be considered as Item No. 8 on today's agenda.

BOA 07-000046 The Board took this item up at 10:30 a.m. with approximately
DERRICK AND 7 people from the public in attendance.
SONIA LIU
HAMAKUA,
HAWAII

PETITIONER: DERRICK AND SONIA LIU (BOA 07-000046) - Appeal of Decision by the Planning Director dated March 19, 2007 First Recurring Violation (ZCV 06-019E) relating to operation of an "Amusement and Recreation Facility, Major Outdoor" (motorcycle and dirt bike race track) in an Agricultural District. The property consists of approximately 19.5 acres and is located on the south side of Kapuna Road, Ahualoa Homesteads, Hamakua, Hawai'i, TMK: (3) 4-6-8:24.

The Chair stated this item has been continued as requested by the Planning Director's attorney as the parties are working toward a settlement agreement.

PUBLIC STATEMENTS The Chair at this time, 10:35 a.m., allowed Brooks Maloof to make a statement.

(SEE EXHIBIT A)

BOA 06-000036 The Board at this time, 10:38 a.m., took this item up with
JALENE RAMONA approximately 4 people from the public in attendance.
HITZEMAN, TRUSTEE
OF THE JALENE
RAMONA HITZEMAN
REVOCABLE LIVING TRUST
KAUPAKUEA HOMESTEADS,
SOUTH HILO

(SEE EXHIBIT B)

BOA 07-000044
REX A. RAMSEY
HAWAIIAN BEACHES
SUBDIVISION,
PUNA

The Board took this item up at 10:56 a.m. with approximately 7 people from the public in attendance.

PETITIONER: REX A. RAMSEY (BOA 07-000044) - Appeal of Decision by the Planning Director dated March 8, 2007, Denied Variance Application (VAR07-004) from minimum yards requirements of Chapter 25, Zoning Code. The property consists of approximately 8,662 square feet and is located on the north side of Welea Street, Hawaiian Beaches Subdivision, Puna, Hawai'i, TMK: (3) 1-5-87:12.

(SEE EXHIBIT C)

MINUTES

The Board took up the following minutes at this time, 4:45 p.m.

July 13, 2007 – The Board deferred approval of the minutes to a future meeting.

ADMINISTRATIVE
MATTERS

The Board took up the following under administrative matters at this time, 3:11 p.m.

Next Meeting – Ms. Kawaha noted the next meeting is scheduled for September 14, 2007 in Kona.

HCPO Conference – Ms. Kawaha requested registration forms be submitted by August 17, 2007, for the September 26-28, 2007 Conference at the Hapuna Prince Hotel, noting the Board should make their own hotel reservations. She added that the registration fee and mobile workshops will be paid by the County; and for any guest fees and special activities, personal checks should be made out to the HCPO Conference. She urged the Board to submit their hotel receipts immediately after the Conference for reimbursement.

ADJOURNMENT

At 4:50 p.m., it was moved by Ms. Gentry and seconded by Mr. Hendricks that the meeting be adjourned. Motion was unanimously carried by a voice vote of all members in attendance.

Respectfully submitted,

Sharon M. Nomura, East Hawaii Secretary

A T T E S T:

Valta A. Cook, Chairman
Board of Appeals