

BOARD OF APPEALS  
COUNTY OF HAWAII

MINUTES  
SEPTEMBER 8, 2006

The County of Hawai'i Board of Appeals met in regular session at 10:00 a.m. in the West Hawai'i Mayor's Office, Conference Room, 75-5706 Kuakini Highway, Suite 103, Kailua-Kona, Hawai'i with Chairman Valta A. Cook presiding.

PRESENT: Valta A. Cook  
George Curtis  
David Drury  
Diane Gentry  
Joel Gimpel  
Peter Hendricks

ABSENT & EXCUSED: Anson Chong

Patricia O'Toole, Counsel to the Board  
Alice Kawaha, Staff to the Board

All those testifying were duly sworn in.

BOA 06-000025                      The Board took this item up at 10:00 a.m. with five  
TOM GREEN AND                      people from the public in attendance.  
DIANE TADEMA  
HOLUALOA 3<sup>RD</sup>,  
NORTH KONA

**PETITIONERS: TOM GREEN AND DIANE TADEMA (BOA 06-000025)** - Adoption of Findings of Fact, Conclusions of Law, and Decision and Order regarding the Petition for Variance from provisions related to setback requirements of Hawaii County Code, Chapter 5 (U.B.C.), Sections 504(a) General and (b), Table No. 5-A, Part III, and Section 1711 Eaves. The property consists of 10,450 square feet, located at the intersection of Leilani Street and Ailina Street in Leilani Sunset Subdivision, Holualoa 3<sup>rd</sup>, North Kona, Hawai'i, TMK: (3) 7-7-20:69.

Neither the petitioner's representative nor the County's representative was in attendance.

It was moved by Ms. Gentry and seconded by Mr. Gimpel that the proposed Findings of Fact, Conclusions of Law, and Decision and Order prepared by the Board's attorney be adopted. Motion was carried with six ayes (Gentry, Gimpel, Curtis, Drury, Hendricks and Cook) and one absent and excused (Chong).

BOA 06-000026  
ALAN POLLAK,  
KELLI POLLAK,  
ROBERT JOHNSON,  
SIMMY MCMICHEAL,  
ALAN GUGINO, ETC.  
KAHALUU,  
NORTH KONA

The Board took this item up at 10:02 a.m. with approximately 5 people from the public in attendance.

**PETITIONERS: ALAN POLLAK, KELLI POLLAK, ROBERT JOHNSON, SIMMY MCMICHEAL, ALAN GUGINO, ETC. (BOA 06-000026)** - Adoption of Findings of Fact, Conclusions of Law, and Decision and Order regarding the Appeal of Decision by the Planning Director dated April 28, 2006 relating to the Approval of Variance Application WH(VAR 05-050), for landowner Judy Emanuel, from Chapter 25, Zoning Code, Minimum yards. The property consists of 0.21 acre, located on the makai side of Alii Drive and approximately 700 feet north of Kahaluu Beach Park, Kahaluu Beach Lots, North Kona, Hawai'i, TMK: (3) 7-8-14:82.

The land owner's representative, Sandra Song, was in attendance.

Neither the Planning Director nor his representative was in attendance, but his Attorney Amy Self submitted a letter stating they had no objections to the proposed Findings of Fact, Conclusions of Law, and Decision and Order.

It was moved by Ms. Gentry and seconded by Mr. Curtis that the proposed Findings of Fact, Conclusions of Law, and Decision and Order be adopted as prepared by Attorney Sandra Song. Motion was carried with five ayes (Gentry, Curtis, Drury, Hendricks and Cook), one absent and excused (Chong) and one recused (Gimpel).

BOA 06-000028  
DVORAH HENDERSON  
KOLO AND  
OLELOMOANA 1<sup>ST</sup>,  
KONA

The Board took this item up at 10:04 a.m. with approximately 5 people from the public in attendance.

**PETITIONER: DVORAH HENDERSON (BOA 06-000028)** - Adoption of Findings of Fact, Conclusions of Law, and Decision and Order regarding the Appeal of Decision by the Planning Director dated May 12, 2006 relating to the Denial of Variance Application (VAR 05-092) relating to water supply requirements of Chapter 23, Subdivision Control Code. The property consists of approximately 13.133 acres, located on the makai side of Mamalahoa Highway in Kolo Subdivision, Kolo and Olelomoana 1st, Kona, Hawai'i, TMK: (3) 8-7-13:49.

The applicant, Dvorah Henderson, was in attendance.

Neither the Planning Director nor his representative was in attendance, but his Attorney Amy Self submitted a letter stating they had no objections to the proposed Findings of Fact, Conclusions of Law, and Decision and Order.

It was moved by Mr. Curtis and seconded by Ms. Gentry that the proposed Findings of Fact, Conclusions of Law, and Decision and Order be adopted as prepared by the Board's attorney. Motion was carried with six ayes (Gentry, Curtis, Drury, Gimpel, Hendricks and Cook) and one absent and excused (Chong).

BOA 06-000024  
PUU LANI  
RANCH CORP.  
PUUANAHULU,  
NORTH KONA

The Board took this item up at 10:05 a.m. with approximately 5 people from the public in attendance.

**PETITIONER: PUU LANI RANCH CORP. (BOA 06-000024)** - Continued hearing on the Appeal of Decision by the Planning Director dated March 20, 2006, purporting to impose remediation requirements and to restrict the availability of building permits for Lot 1. The property consists of approximately 1.001 acres, located in Puu Lani Ranch Subdivision, Puuanahulu, North Kona, Hawai'i, TMK: (3) 7-1-6:54.

Chairman Cook stated that the parties have stipulated to a dismissal of the case as the issues have been resolved.

BOA 06-000027  
MOSELEY TRUST  
KEAUHOU,  
NORTH KONA

The Board took this item up at 10:06 a.m. with approximately 3 people from the public in attendance.

**PETITIONER: MOSELEY TRUST (BOA 06-000027)** - Appeal of Decision by the Planning Director dated April 13, 2006 Notice of Violation and Order (ZCV 06-010W) relating to operating a second dwelling within a permitted Guest House within a Single Family Residential zoned district and within the Special Management Area. The property consists of 12,393 square feet, located along Heeia Way in Keauhou Subdivision, Keauhou, North Kona, Hawai'i, TMK: (3) 7-8-20:9.

Dennis Krueger said he has recently been retained by Mr. Jim Finen to represent him in this matter and that he understood from Corporation Counsel that as of yesterday Mr. Finen has failed to notify the surrounding property owners, as instructed by the staff, of the Board's hearing. Upon the Chair's clear instructions, Mr. Krueger said he will make it clear to Mr. Finen that the Board does not expect another continuance on the matter and that surrounding property owners will receive notice of the Board's November 9, 2006 meeting.

BOA 06-000029  
DENNIS WONG  
KAUPULEHU,  
NORTH KONA

The Board took this item up at 10:09 a.m. with approximately 2 people from the public in attendance.

**PETITIONER: DENNIS WONG (BOA 06-000029)** - Appeal the Denial of Use of Alternate Materials of Construction relating to Section 5-1.0.132 of Chapter 5 (Uniform Building Code) of the Hawaii County Code. The property is located within the Ke Alaula Hales Subdivision in the Hualalai Resort development, Kaupulehu, North Kona, Hawai'i, TMK: (3) 7-2-21:Portion of 11.

The Chair stated he did grant the applicant's request for a continuance on the matter to the Board's November 9, 2006 meeting.

MINUTES

The Board at this time, 10:10 a.m., took up the following minutes:

August 11, 2006 – It was moved by Mr. Drury and seconded by Ms. Gentry that the minutes be approved as circulated. Motion was unanimously carried by a voice vote.

ADMINISTRATIVE  
MATTERS

The Board took this matter up at this time, 10:11 a.m.

Corporation Counsel Report on status of appeals filed on decisions by Board of Appeals – Ms. O'Toole had nothing new to report.

Staff Report – Mrs. Kawaha reminded the Board Members of the HCPO Conference in Honolulu on October 3 to 5, 2006 and reported that the next Commission meeting is scheduled for October 13, 2006 in Hilo.

ADJOURNMENT

There being no further business, the Chair declared the meeting adjourned at 10:13 p.m.

Respectfully submitted,

Sharon M. Nomura, Secretary

A T T E S T:

Valta A. Cook, Chairman  
Board of Appeals