

BOARD OF APPEALS
COUNTY OF HAWAI'I

MINUTES
DECEMBER 12, 2008

The Board of Appeals met in regularly session at 10:03 a.m. in the County of Hawaii, Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawai'i, with Chairman Joel Gimpel presiding.

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

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

The Chair introduced the Board Members to the public in attendance.

PUBLIC STATEMENTS The following individuals provided testimony under public statements regarding David Owens (BOA 08-000072):

JASPER MOORE (SEE EXHIBIT A)
JEFF MELROSE (SEE EXHIBIT B)
TIP DAVIS (SEE EXHIBIT C)

EXECUTIVE SESSION The Board went into executive session at 10:19 a.m. by a motion made by Mr. Drury, seconded by Mr. Hendricks, and unanimously carried by a voice vote of all members in attendance to discuss legal issues surrounding the David Owens (BOA 08-000072) appeal. The Board came out of executive session at 10:34 a.m. by a motion made by Ms. Hart, seconded by Mr. Hendricks, and unanimously carried by a voice vote of all members in attendance.

BOA 08-000072 The Board took this item up at 10:35 a.m. with
DAVID OWENS five people from the public in attendance.
DOWNTOWN HILO,
SOUTH HILO

PETITIONER: DAVID OWENS (BOA 08-000072) - 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 D)

BOA 08-000062
DORIS M.
SCHARPF TRUST
PUAKO,
SOUTH KOHALA

The Board took this item up at 12:04 p.m. with no one from the public in attendance.

PETITIONER: DORIS M. SCHARPF TRUST (BOA 08-000062) - Appeal of Decision by the Planning Director dated February 29, 2008 for Special Management Area Violation (SMA/V 2008-013W) and Shoreline Setback Violation (SSV 2008-013W), relating to construction of seawall in County right-of-way and within the shoreline setback area. The subject property consists of approximately 19,401 square feet and is located on the makai side of Puako Beach Drive, Puako, South Kohala, Hawai'i, TMK: (3) 6-9-5:1.

Neither the petitioner nor representative was in attendance.

The Chair stated that this matter is continued to the January 16th meeting as requested by the parties involved to allow them an opportunity to resolve the matter.

MINUTES

The Board took up the following at this time, 12:06 p.m.

November 14, 2008 – The minutes were approved by a voice vote of all Members in attendance.

ADMINISTRATIVE MATTERS

At 12:07 p.m., the Board took up the following under administrative matters:

Status of appeals filed on Board of Appeals decisions - Corporation Counsel – Mr. Drury questioned whether the Board needed to act on Thomas S. Lowe III's request for a contested case hearing regarding Doris M. Scharpf's appeal. Ms. Schoen explained that Ms. Kawaha will be contacting Mr. Lowe if he is indeed requesting standing since the appellant's attorney transmitted a Planning Commission "Petition for Standing in a Contested Hearing." The Chair noted that the Board need not act on the request today as Mr. Lowe has not responded as yet and the matter is continued, noting the petitioner and Planning Director were working towards a resolution. Ms. Schoen advised the Board to consider any request to intervene whether the proper form was used or not.

Supreme Court Appeal on Christopher J. Yuen, Planning Director, County of Hawaii v. Board of Appeals of the County of Hawaii, and Marlene E. Calvert – Civil No. 06-1-0184 – Ms. Schoen noted the jurisdictional statement on this water variance matter was filed last week and she has not received the opening brief as yet.

ANNOUNCEMENTS

Staff announced the next Board meeting is scheduled for January 16, 2009 in Kona.

ADJOURNMENT

There being no further business the Chair declared the meeting adjourned at 12:12 p.m.

Respectfully submitted,

Sharon M. Nomura, Secretary

A T T E S T:

Joel Gimpel, Chairman
Board of Appeals