

**BOARD OF VARIANCES AND APPEALS
SITE INSPECTIONS
SEPTEMBER 13, 2007**

A. CALL TO ORDER

The site inspections of the Board of Variances and Appeals (Board) were called to order by Chairman Randall Endo at approximately, 9:23 a.m., Thursday, September 13, 2007, at the property located at 3250 Kalua Koi Road, Kaluakoi, Moloka'i.

A quorum of the Board was present. (See Record of Attendance.)

Chairman Randall Endo: Trisha, do you want to – what we have to do next?

B. SITE INSPECTIONS

1. **9:15 a.m. – Site inspection of property located at 3250 Kalua Koi Road, Kaluakoi, Moloka'i, Hawai'i, TMK: (2) 5-1-006:062 for the following variance request:**

ARTHUR H. PARR, AIA of PARR & ASSOCIATES representing RICHARD and ELENA POLLACK requesting a variance from Maui County Code, §16.08.060(c) to allow a three-story, single-family dwelling to exceed the two story height limit. (BVAV 20070011)

Ms. Trisha Kapua`ala read the above agenda item into the record.

Chairman Endo: Okay, so let the record reflect that Mr. Arthur Parr is here.

Mr. Arthur Parr: Yes.

Chairman Endo: Okay, and anybody else on behalf of the applicant is here?

Mr. Parr: No.

Chairman Endo: No? Okay, so you want to do a short presentation of what we're looking at?

Mr. Parr: Sure. We're standing about right here somewhere right now. And this represents the building that is being proposed, and this is the proposed pool house. The building is kind of in a T or an L-shape. This portion of the residence is one story above the base flood elevation. And this portion of the building is two stories above the base flood elevation. And we're asking that this – we're asking that the variance be granted for this portion of the building because by definition, it turns out to be a three-story building.

Anyway, here's Kalua Koi Road out here. Here's the ocean. Right in here is the top of the dune right through here and that's at Elevation 30.5. This is the low spot along in here where sand was mined a long time ago. This is about 9.5. And the base flood elevation – or excuse me, the existing, original grade along in here is at 14. And the base flood elevation is 24. So there's ten feet between the original finished grade and BFE or base flood elevation.

Chairman Endo: Can you point out where the house is—the existing house is on the map?

Mr. Parr: Okay, it's just – here's the existing house right here. So the new structure is going to be just beyond it, extend out to our left.

Mr. Harjinder Ajmani: This is the existing house?

Mr. Parr: Yes, it's this right here. Here's – this is across – a longitudinal section through the site. This is cutting through the site in a long dimension. Here's the ocean out here. This is the dune. The high point of the dune is right here. Elevation is 30.5 feet. Come in a ways and you have the property line. It's at this location. Base flood elevation on the ocean side of the dune is 28. On the inland side, it's 26. The BFE drops down to 25 at this point. It drops down to 24 at this point. Then it goes through the residence, and then it drops down to 22, and then finally, 18 out toward the street.

So there's the residence which is this drawing right here. Here's the existing, original grade at Elevation 14. Here's base flood elevation at 24. And here is our proposed finished floor elevation of 25 and 1/4 inches. And we have another floor of living space above that, two floors of living space over here, one floor of living space over here above BFE. We're 35 feet from existing, original grade to the top of the roof, which is permitted in the Zoning Code.

Okay, we were told that this turns out to be a three-story structure, which is not permitted. So we proposed to the County that we bring some fill in and locate it under the house. The rule is that if more than 50% of the perimeter of the house is six feet or more from finished floor to the grade below, then it's a story. So we proposed to the County that we would put in fill to meet that 50% requirement. The County said okay, we'll support that. And then as they got to looking at and working with it some more, they said, you know, being in a flood zone, no, we can't permit that. No fill anywhere on the site. So that put us back to square one. Our only option at that point was to apply for a variance or go through another whole redesign. And our client, Richard and Elena Pollack, they want a two-story house, and we're doing our best to get that for them. This is the section.

Chairman Endo: So that two-story section would be over here makai of the existing

house?

Mr. Parr: Yes.

Chairman Endo: You come around here?

Mr. Parr: It's beyond the existing house. It kind of stretches out toward—

Mr. Francis Cerizo: Did you explain what was the code requirement on—? So we have a Zoning Code requirement and that's why you're seeing this 35 feet is okay. The zoning requirement – it's the Housing Code that requires the—

Mr. Parr: It has the two-story. The Zoning Code doesn't say anything about number of stories. It just has the maximum building height of 35 feet in a flood area. And then there's the Housing Code that says two stories or 30 feet.

Mr. Ajmani: On this side, you have nothing? What is happening here?

Mr. Parr: If we can take a look at that site plan, Francis? This area over here, we have a pool and a pool deck out over here. And then the existing structure which is right here is going to be relocated to over here.

Mr. Ajmani: This is the two-story portion?

Mr. Parr: This is the two-story portion. This is single story. And we're making some major changes to the pool house at the direction of the County. We have to reduce it in size and do a bunch of breakaway walls.

Mr. Ajmani: On this side, what is underneath the first story there?

Mr. Parr: There's a garage over here and some storage over here at grade level.

Mr. Ajmani: So that is not counted as one story?

Mr. Parr: Well, it's counted as a story, but we only have one story of living space above, one floor of living space above. So this is counted as a two-story structure over here.

Mr. Warren Shibuya: Does that structure have a washroom, shower, kitchen area?

Mr. Parr: On the upper level, yes.

Mr. Shibuya: Oh, on the upper level. No, no, I mean at the area where the garage is as you've just mentioned here.

Mr. Parr: No, there's nothing there except the garage and storage space.

Mr. Shibuya: And that's part of the landfill area? Is that resting on the landfill?

Mr. Parr: There's no fill.

Mr. Shibuya: No fill. On the swimming pool area, is that on the landfill area?

Mr. Parr: The pool will be on-grade.

Mr. Shibuya: On-grade, but around that pool, is that fill?

Mr. Parr: We have – no, we have an elevated deck, but there's no fill. It's just a structural deck.

Mr. Shibuya: Okay, the pool was – please describe that pool—how it's constructed. It's not something in a hole, apparently.

Mr. Parr: What we're proposing is this is the pool right here. It's got concrete walls – actually, footings here like that. Four solid concrete walls. And the pool deck area is up here like that. And this is all open. There's no fill. It's a structural support with a deck.

Mr. Shibuya: So it's above grade. The lip of that pool is about how tall above the grade?

Mr. Parr: Six feet, plus or minus.

Mr. Shibuya: Okay, thank you.

Chairman Endo: So you're hardly digging into the grade at all for that pool, then?

Mr. Parr: Very little. We're supporting the structure on piles so that environmentally, we're disturbing the earth at sort of a minimum fashion.

Chairman Endo: How many piles are there?

Mr. Parr: Twenty-six.

Chairman Endo: How deep do they have to go?

Mr. Parr: Fifteen feet below existing grade, 24 inches in diameter.

Mr. Shibuya: The reason why I asked that question on the structure of the swimming

pool is because on this map that you show, it says existing grade and finished grade, and then you have this so-called fill. I would assume that it went straight across, but I guess it stops at a certain point.

Mr. Parr: Well, we were proposing this, and we were told, no, you can't do this.

Mr. Cerizo: There's a conflict in the codes. Our code doesn't allow fill in that coastal flood zone area. The Housing Code allows for it. So they wanted to resolve the story difference by putting in fill, and that would resolve the Housing Code requirement, but it wasn't in compliance with our Flood Hazard Ordinance. So they had to take out the fill otherwise, it would be in compliance.

One thing, do you know about the change in the Housing Code? Are you aware of that?

Mr. Parr: Well, I'm aware that – it's my understanding that the Housing Code is going to go away. I don't know if it's the whole code, but at least that's what I've been told. Now, when that happens, I don't know, but–

Mr. Cerizo: So when the Housing Code goes away, then this requirement would've been–

Mr. Parr: Then this would be legal, yes. Yes, they'll allow–

Mr. Cerizo: There wouldn't be any Housing Code requirement, if that happens.

Mr. Parr: Yeah. The only criteria when the Housing Code goes away will be a maximum height of 35 feet. There won't be any limitation or requirement for the number of stories. It'll just be 35 feet. So if you could figure out how to do it, you could have five or six stories at 35 feet.

Mr. Ajmani: There is the flood zone requirement of not putting any fill in, so the flood can flow through without damaging the structure and so on. How will you–? See, in these drawings that you sent us, there is no floor plan for this lower level. So it doesn't show what is happening on that level.

Mr. Parr: What we have around the entire exterior of the building, this line is – we've gone to a lattice work design which allows water to flow through in and out, basically.

Mr. Ajmani: But how is this portion going to block that waterflow?

Mr. Parr: Hopefully, the pool will remain where it is throughout a tsunami.

Mr. Ajmani: The pool, I'm not concerned about. I'm concerned about the rest of the ground floor because no floor plan was given with this set of documents. Do you have a drawing of that?

Mr. Parr: Yeah. I don't – you know, I can bring one to the meeting this afternoon with me, but the pool will remain in place. And–

Mr. Cerizo: But you want to know if there's anything below the deck or below this floor.

Mr. Ajmani: Below this portion of the flood flow that is negating the purpose of what we're allowing to be in here unless they leave it open. The whole purpose of leaving it open is that a flood comes through and comes back. And if this blocks it, that's going to create issues.

Chairman Endo: But I think that is a little bit hard to see because of the angle, so maybe you should look at this one and tell us how the two relate.

Mr. Shibuya: Actually, this is backwards. You've got to turn it around 180 degrees.

Mr. Ajmani: Okay, so here it looks to me that this portion has stilts basically on this portion – on the piles. This is the one that is blocking, and the pool will be blocking, so when a flood comes in–

Mr. Parr: The only obstruction anywhere in the whole building would be the pool because we have breakaway walls or this lattice arrangement everywhere else.

Mr. Ajmani: Okay, so the first floor plan of this area will clarify that.

Mr. Parr: Yes.

Mr. Ajmani: So if you can bring that to our meeting, that would be great.

Mr. William Kamai: Mr. Parr, the building as it exists, will no longer be a part of it? It's going to be removed and moved some place else?

Mr. Parr: Yeah, the existing building is right here, and it's going to be moved over here. It just kind of goes in that direction.

Mr. Kamai: So there's nothing on this drawing that is – contains the existing dwelling? This is all the new–

Mr. Parr: No, this is all new. That's right.

Mr. Cerizo: The existing building is being moved away right?

Mr. Parr: Yes, it's going over in that direction.

Mr. Kamai: So what's restricting you from reducing the overall height from being in compliance like bringing this down?

Mr. Parr: Well, we'd be talking about bringing this down. This is already in compliance.

Mr. Ajmani: Well, the flood level.

Mr. Cerizo: Yeah, the flood height. You're stuck at this 24. You can't build anything below the BFE. Anything below the BFE, the base flood elevation, which is 24 – like in this case here, I believe the bottom of that beam is 24. Everything below is supposed to be breakaway.

Mr. Ajmani: So this is not legal.

Chairman Endo: So that structure is—?

Mr. Cerizo: That looks like it's – yeah. Well, I don't know, unless that bottom portion, that enclosure there is breakaway. I mean, you can design storage areas that's all breakaway. We have had complete enclosures where the bottom is all breakaway. So they would – so we'd have to check against the original plans to see if this is all breakaway.

Mr. Ajmani: Well, you're going to lower it anyway and put it over there.

Mr. Cerizo: Oh, yeah, that's going to be a different matter.

Mr. Ajmani: How is that one there? That's a new one. That can't be legal either.

Mr. Cerizo: Everything below that, below the base flood elevation is supposed to be breakaway. The only thing that doesn't have to be breakaway is access, parking. The only thing you're allowed to have below the base flood elevation is access, and parking, and storage. You can have those, but they have to be breakaway. But as far as the stairs, they don't have to be breakaway.

Mr. Uwe Schulz: If the basement of the house has to be breakaway, how can they build a pool with solid walls? Isn't that—?

Mr. Cerizo: Yeah, if the pool was under the house, you might have a problem, but the pool is outside of the house. When you look at the house, everything under the house

has to be breakaway. So the original question is if the pool's outside, is that going to affect the—? Actually, we look at the structure itself, when the wave comes through the house, is everything below the house going to breakaway so that the water, the forces, will actually – it's going to be passed through? It's not going to be like pushed against the wall, and the wall will start pushing against the house. It'll actually break the walls so that only columns will be actually—

Mr. Schulz: How about an above ground pool? It is not breakaway. That thing is just going to swim.

Mr. Cerizo: Well, they have to show that those pools will not move even if it's empty. So it has to be anchored enough with enough weight on that pool so that it will not float away.

Mr. Shibuya: Concrete floats. You know that, huh?

Mr. Cerizo: Well, you can anchor it down so it doesn't float. You can design something that won't float. It's an engineering problem, but it can be done.

Mr. Schulz: I mean your Department is really concerned if you even have an in-ground pool. I've designed a few on Front Street, for example, and I had a hell of a time convincing your Department that those pools in the ground don't float and destroy the house. So if you have one above ground, it makes it even worse.

Mr. Cerizo: Well, it's the same problem. It's exactly the same. One is just in the ground and one is partly out of the ground, but it's all – will that float and start banging on the houses? That's the question. Will it actually float? So you have to have enough weight in that pool to counteract the weight of the buoying forces of the water. It's going to try and raise it up. But you've seen concrete ships float. But anyway, it can be designed.

Mr. Ajmani: What is the water level of the pool? It's about here?

Mr. Parr: Yeah, that's going to be right in here. It's going to be at about 20, 19, 20, somewhere in there.

Chairman Endo: Okay, so are we done? Any more questions for the site inspection? Okay. Anybody – is there anybody in the public who wishes to testify? We'll now open it up for public testimony. Seeing nobody here – nobody wants – I mean, people are here, but nobody wants to testify, so we'll close the public hearing as to this item. And shall we close the site inspection? Is there anything else? Anybody else needed to ask on the record before we move on to our next site inspection? Seeing nothing, we'll end the site inspection. All right, so what does that mean?

Mr. Cerizo: We're going to our next one. Do we adjourn or do we defer to the next--?

Chairman Endo: Recess to the next site inspection? Okay.

(A recess was taken from 9:45 a.m. to 11:07 a.m.)

2. **11:00 a.m. (approximately) – Site inspection of the proposed Kaunakakai Fire Station located off of Alanui Ka `Imi `Ike near its intersection with Kakalahale Street, Kaunakakai, Moloka`i, Hawai`i, TMK: (2) 5-3-003:015 (por.) for the following variance request:**

MUNEKIYO & HIRAGA, INC. representing COUNTY OF MAUI, DEPARTMENT OF FIRE AND PUBLIC SAFETY requesting a variance from Maui County Code, §19.31.020(B)(3) to allow a training tower to exceed the thirty-five (35) feet height limit by nine (9) feet for the proposed Kaunakakai Fire Station. (BVAV 20070008)

Chairman Endo: So the site inspection of the Board of Variances and Appeals is reconvened. It's now 11:07 a.m. on September 13, 2007. And we're now looking at the fire station site. Trisha, can you introduce it?

Ms. Kapua`ala read the agenda item into the record.

Chairman Endo: Is there anybody here from the public who wishes to testify? We'll now open up the public testimony. Seeing no response, we'll close public testimony on this item, and we'll move to having the applicant describe the site and make a short presentation.

Mr. Michael Munekiyo: This is Alanui Ka `Imi `Ike right here. We're at Alanui Ka `Imi `Ike. So the project site, the fire station site, is directly across the street. And this project has been in the works for a very long time. The County Department of Fire Control recently received all of the land use entitlements' approvals. And now, they're ready to move into building permit processing. And one of the elements of the project is a training tower which is located, I think, just around here. And I think the training tower itself is probably right across the street in this vicinity.

But we will have a power point presentation at our meeting this afternoon, but a training tower looks just like this. And it's 44 feet high whereas in the public/quasi-public zoning district, it's a 35-foot height limit, so we are nine feet over. And that's basically the variance that we'll be bringing before the BVA this afternoon. And we'll kind of lay out the rationale for why it is that the Fire Department needs that excess height on the

training tower. But if there's any questions, I think Captain Jenkins can answer those in respect to some of the technical requirements for firefighting.

Chairman Endo: Where will the driveway be?

Mr. Munekiyo: The driveway? There's going to be on right up here between, I think, these two poles here. And then the second one will be probably closer to that pole down there. So two driveway points serving the driveway site.

Mr. Cerizo: Is there any grading on the project?

Mr. Munekiyo: Yes. In fact, we need to kind of level out this whole area up here and get it back down. So the tower is actually going to be sitting on a cut condition.

Mr. Cerizo: How much are you cutting? How much is the cut at that--?

Mr. Munekiyo: I think it's almost at grade, actually. The tower-- I think right now it's about 57 existing grade, and it's probably going to be close to that. But there's going to be a slight cut, I think.

Mr. Ajmani: This is the current grade?

Mr. Munekiyo: The existing grade, so there's a slight cut--maybe a foot?

Captain Greg Jenkins: In some area.

Mr. Munekiyo: Just under the tower, it's probably a couple feet--not that much.

Chairman Endo: Why did they pick this site? Do you know? There's no zoning -- government land around?

Captain Jenkins: Actually the issue of the selection of the site, there are a lot of factors. One was its proximity to the existing fire station on Kaunakakai and our current outlay of our response district. Everything's based upon distance from the fire station within five miles and within certain feet of water supply. So we needed to protect the town proper, which is one of the most critical, dense areas of this particular response district of Kaunakakai.

This property is also situated -- basically, Moloka'i is landlocked. I'm sure you guys are away of that in a lot of different ways. This particular parcel is owned by Moloka'i Properties Limited. It traces back to the Bernice Pauahi Crown Land Estates. This was one of the only properties that would serve the size of the building that we needed to construct and a landowner that was willing to work with us. There was another parcel

that we considered down the road towards Hotel Moloka`i. And the problem with that was there would've been one or two lots would've had to be combined together, and it would've needed to be in conjunction with an affordable housing project that the Mayor at the time was not willing to pay for that parcel. And it was also approximately, a million dollars more in cost of land. This parcel was negotiated at a hundred thousand dollars for approximately five acres. The landowner has been very reasonable with us to accommodate our needs.

And also the issue of flood zones—very little land is available outside of DHHL. We're flanked on Hawaiian Homes on both sides of town. Hawaiian Homes in the Kalama Ula Homestead Subdivision to the west, and we have Hawaiian Homes pastoral lands just on the other side of this fence line about a couple of a hundred feet through here. And then everything else is pretty much locked up. And then it takes you further and further from our core of our district that we're protecting. So this became one of our – only a couple sites.

The other thing to note is this parcel is very large. It starts all the way down by the road there on Kamehameha V Highway. It continues all the way pass this pu`u. It goes above Ranch Camp Subdivision all the way over to the left behind the hospital.

Another condition that we had was how we would impact this particular residential community, and involve it in our normal responses. We can response into if we need to for an emergency, or as an alternate route, but primarily down here in the town both ways—east and west.

The parcel at the top of Malamalama Street, which is basically above where you see these homes, it would require us to always respond through a residential neighborhood to get to our calls which was not something that we felt that was safe or reasonable. And the other thing was we could have proposed a project over by the hospital, but then we had infrastructure issues with only one road serving that hospital in and out. And it's already been – that location as well as the armory was identified as a poor location due to critical access. So imagine, hospital, National Guard, Fire, and that's where Police is going to be, too, all congesting on one small road that's narrower than this. It wasn't a good planning issue. So this became thankfully, available for us. We're actually lucky that it existed.

Chairman Endo: Okay, any further questions?

Mr. Shibuya: I have a question in terms of where does this road go? It doesn't meet up with this highway down below, right? So your access is just down here?

Captain Jenkins: This road here, this is a relatively new road, if you guys were familiar with it. It's owned by the County. It was dedicated about maybe five years ago,

approximately. It goes up and it ties into this intersection here. This is the intersection of Kakalahale and Kalohe Street. And Kalohe Street, just pass these homes, it ties into a main – I don't want to say a thoroughfare, but one of the main streets of this Ranch Camp Subdivision called Malamalama Street. And it goes all the way down behind the current fire station, the government building, and it goes all the way down to Kaunakakai Wharf. It turns into Kaunakakai Wharf—that road. Also, there's other adjoining streets like Kakalahale and a few others that enable you to have more detailed access into the subdivision. So if we needed to respond whether it be a hazmat call– I'll give you an example. For the hazmat call, we have upwind condition situations, or we have a blocked road, or we have a – or any disaster and we're trying to get to some part of town to make access, we have the alternate routes through here, multiple areas of this subdivision, as well as down here. And to the left of this intersection of this road here, Ka `Imi `Ike, our district goes five more miles to the east. So we protect approximately, five miles more to the east where there's a dense residential population. And actually, there becomes a slight insurance benefit with the location of the station. It's not something that we always focus on because it's not about always how many taxes you pay, or who gets an insurance break, but it's an important consideration. We actually increase the insurance blanket to extra homes by having the station located over here and not compromising it to the west. It's a benefit to the east.

Mr. Ajmani: On your existing fire station, the one over there, do you have a training tower in there?

Captain Jenkins: No, sir. We use other means here and on Maui to accomplish the training.

Chairman Endo: Okay, any other questions? No? Okay. Then we'll end the site inspection, and recess until we see you folks back at 2:00 p.m. at the meeting place where we'll take the matter up in more detail.

C. NEXT MEETING DATE: September 13, 2:00 p.m., Department of Hawaiian Homelands, 600 Maunaloa Highway, Ste. D-1, Kaunakakai, Moloka`i, Hawai`i

D. ADJOURNMENT

The site inspections ended at approximately, 11:18 p.m.

Respectfully submitted by,

TREMAINE K. BALBERDI
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Members Present:

Randall Endo, Chairman
Warren Shibuya, Vice-Chairman
Rachel Ball Phillips
William Kamai
Uwe Schulz
Harjinder Ajmani

Members Excused:

Stephen Castro, Sr.
James Shefte
Kathleen Acks

Others:

Francis Cerizo, Staff Planner
Trisha Kapua`ala, Staff Planner
James Giroux, Deputy Corporation Counsel