

**BOARD OF VARIANCES AND APPEALS  
REGULAR MEETING  
JUNE 27, 2013**

**(Approved: 7/11/2013)**

**CALL TO ORDER**

The meeting of the Board of Variances and Appeals (Board) was called to order by Chairman Rick Tanner at approximately, 1:35 p.m., Thursday, June 27, 2013, in the Planning Department Conference Room, first floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

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

Chairman Rick Tanner: The meeting of the Board of Variances and Appeals will now come to order. Let the record show it is 1:35 p.m. and we have a bare quorum at this time.

So what we're gonna do is we've got one more Board Member who's on his way. He's gonna be a few more minutes. And so we're gonna go ahead and start the meeting with public testimony so we can move through and then we'll still have a full quorum by the time we get to the items on the agenda. So if we could start with that.

So what you're gonna be able to do is make your statements if you're here to make a statement on one of the cases. Make that to the Board. Generally, you have three minutes. We might give you a little bit more than that and then we'll move on down the line. And then when that case comes up, you won't have to make your statement again. You won't even have to stay here. So for those of you who've got other things to do, you can do that, and then you can move on, or you can stay if you like, but you won't be called up again for that. So if you would, anybody that would like to do that, make sure that you put your name on the list for that. I noticed a number already have, so we could probably get going on that. And I'm gonna call these up in order in which they were signed in. Michael Sena, if I'm pronouncing that right. Michael, go ahead. Come on up. And this is gonna be on the Valley Isle Friendship Variance.

Mr. Michael Sena: Yes, sir, Valley Isle Fellowship Church.

Chairman Tanner: Fellowship. There you go.

Mr. Sena: Thank you. Chairman Rick Tanner and the Board Members, I just wanted to give a brief testimony on behalf of Valley Isle Fellowship Church. So I'll keep it brief. My name is Michael Sena. I've been a Member of Valley Isle Fellowship for over ten years. And I'd like to thank you for the opportunity to present my testimony on behalf of Valley Isle Fellowship Church. Today, I stand before you and I humbly ask that you expeditiously approve the variance. We would kindly appreciate that so that we could proceed and build our church for the community of Maui. We're a very loving church and an opening church. And anyone who knocks on our door is welcome. We promise to care, respect, and share this beautiful piece of the aina that we believe God has provided and blessed us with.

Our church would be sincerely thankful to all you folks for passing the variance. And in closing, we would like to extend an invitation to all of you folks here in the room and your families anytime you wanna visit Valley Isle Fellowship currently at the Wailuku Elementary Cafeteria where we're

currently at on Sundays, and hopefully, very soon at our new facility here in Wailuku in the Maui Lani area. So thank you, folks, so very much for your consideration. Mahalo.

Chairman Tanner: Thank you, Michael.

Mr. Sena: And may God bless you all.

Chairman Tanner: I'm not very good with names. I'm gonna go with Florena? You're gonna have to restate again when you get up there.

Ms. Florence Nakama: Good afternoon, Chairperson Tanner and Members of the Variance and Appeals Board. My name is Florence Nakama, and I'm a resident of Waikapu, and am a Member of Valley Isle Fellowship. I'm here to support the request from Valley Isle Fellowship requesting a variance from Maui County Code Section 16.04B.140 to expedite the building permit process so Valley Isle Fellowship can move forward to begin the construction of our church building. Our present church building located at 473 High Street for the last 12 years has not been large enough to accommodate our two Sunday morning worship services. So we have rented the Wailuku Elementary School Cafeteria. We are anxious and are looking forward to having our worship services in our church building on our new property.

You received the June 14<sup>th</sup> 2013 report from Fire Chief Jeffrey Murray of the Department of Fire and Public Safety which analyzed the reasons for the variance. And the staff analysis concurred with the applicant, Valley Isle Fellowship, that "Granting of the variance would not be contrary to the purpose of this code and the public interest." So I present to you for your consideration. Thank you.

Chairman Tanner: Thank you. Manny?

Mr. Manny Suguitan: Good afternoon, Board Members, and Mr. Chair, Rick Tanner. My name is Manny Suguitan and I have been a Member of Valley Isle Fellowship since its inception in 2000. Prior to 2000, the property had been known as Wailuku Baptist Church of which I first became a member in 1977. The current church property is located at 473 High Street. The building was built as a residence more than 60 years ago. Currently, we hold our Sunday services at Wailuku Elementary School Cafeteria because of the inadequacy at our current property to accommodate the number of people attending our worship services and ministries. With your approval of our variance request, Valley Isle Fellowship will be able to build a worship facility on our new property in Waikapu. This will allow Valley Isle Fellowship to not only better serve our current members and friends, but allow us to better serve our community as we grow. Having been a member of our church for many years, I firmly believe that we have been and will continue to be an asset and have a positive impact on our community with our keiki, youth, and senior ministries and worship opportunities. I humbly ask you to favorably consider and grant our request. Thank you for your kind consideration and for allowing me to testify in favor of the variance request. Thank you.

Chairman Tanner: Thank you. And it looks like the last gentleman on the list, if I'm reading this correctly, is it Darrel?

Mr. Darren Sarmiento: Darren.

Chairman Tanner: OK.

Mr. Sarmiento: Hi. My name is Darren Sarmiento. I'm one of the members as well as one of the ordained ministers for our church. And we're just kindly asking for the request for the variance just so that we can build in a timely manner. And again as we're in that area that we're placed in, our hearts is to be very . . . a benefit and a blessing to the community. As you've heard, we've been holding our services at Wailuku Elementary School. Beverly Stanich, who's the principal there, we've worked alongside her for many years being over there, and many upgrades to the area, the cafeteria, that we've used. We also help out the school with a lot of things: repairs, donations. They do their fifth grade graduation every year. Me and others are part of that to help them. So we're just kindly asking a request that you would pass the variance only so that we can build in a timely manner and be a benefit to the community. We don't wanna be an organization or a church just for ourselves but to be a blessing to our community. So thank you.

Chairman Tanner: Thank you. Those are all the names I have on the list. It appears that everybody on this side of the room is in favor of the variance, and everybody here is opposed. Is that correct? (Laughter from the audience.) No? OK. All right.

If there is anybody that would like to come up at this time, you're welcome to do that on this variance or another variance on the agenda. No? We're gonna take about a ten or 15-minute break and give our other Board Member a few minutes to get here. So I apologize for that delay, but we don't want to have to cancel anything, or redo anything, so we're gonna give it a few minutes. So back in session as soon as he appears.

(A recess was then taken at 1:46 p.m. and the meeting reconvened at 2:02 p.m.)

Chairman Tanner: We're gonna take an item out of the agenda schedule and move it forward. This is a continuation: Deborah K. Wright and Douglas R. Wright. And we're gonna move that one forward and go ahead and start with that. So if you'd like to go ahead?

### **C. COMMUNICATIONS**

1. **DEBORAH K. WRIGHT, ESQ., AND DOUGLAS R. WRIGHT, ESQ., of WRIGHT & KIRSCHBRAUN representing TROY and SUSAN MCCASLAND for an appeal of the Planning Director's notice of violations of Maui County Code, §§19.12.020, 19.37(A), & 19.65.080(D) for the operation of a non-permitted short term rental within the County's Apartment District for property located at 120 Kanani Road, Kihei, Maui, Hawaii; TMK: (2) 3-9-016:038 (BVAA 20130001).**

- a. **Stipulation to Continue Hearing Date to 08/08/2013.**

Ms. Mary Blaine Johnston: Thank you. Deputy Corporation Counsel, Mary Blaine Johnston, appearing on behalf of the Planning Director in this matter. Just for the Board's information, the hearing was supposed to go forward on the McCasland's appeal today, but we moved it off. We're in the process of working out a settlement on that. So hopefully . . . I know you've got some materials before. Do hold on to them, but hopefully, we'll take care of this case, and you won't have

to hear this matter. We'll let you know.

Chairman Tanner: August 8<sup>th</sup> is . . . ?

Ms. Johnston: Is August 8<sup>th</sup> the date that indicates on . . . ?

Mr. James Giroux: That's what it says on the . . .

Ms. Johnston: OK. OK. Yeah, hopefully, by August 8<sup>th</sup>. And if for some reason, the Wright . . . Deborah Wright is going on a long vacation so if we don't get it done, we may have to continue it over another time, but we'll give you advanced notice so you don't have to spend time looking at it if we're not gonna go forward on it.

Chairman Tanner: OK. Thank you very much. And we were very hopeful that our other director would be here by now, but he's a little late, later than we anticipated. We're gonna go ahead and get started. The next item on the agenda, Rick and Debra Strini.

(Mr. Chad Fukunaga then entered the meeting at 2:03 p.m.)

Chairman Tanner: And there we go. All right.

## **B. PUBLIC HEARINGS**

- 1. RICK and DEBRA STRINI requesting a variance from Maui County Code, §16.04B.010 and Uniform Fire Code (1997), Article 9, §902 to delete the requirement of providing a 20-foot wide all-weather surface road, by adding a compacted gravel apron of five feet (5') on both sides of the existing 10-foot wide concrete road of Manawai Place, for the Manawai Homesteads Subdivision (DSA File No. 2.2806) located at 263 Manawai Place, Haiku, Maui, Hawaii; TMK: (2) 2-8-003:041 (BVAV 20130006).**

Chairman Tanner: OK. If you'd state your name for the record, and we'll let you get started with your presentation.

Mr. Rick Strini: It's Rick Strini. I have a rebuttal letter that I dropped off at the beginning of the meeting that I'd just like to go over. I received a copy of the staff analysis from the Fire Department and would like to address the four items there.

Number one, it is correct that the existing ten-foot concrete road which has been in existence for over 20 years may not conform to the ever-changing Fire Department requirements. However, it is important to understand that on each side of the ten-foot concrete roadway that goes down our street, there is a five-foot wide road surface which has been compacted over 20 years of service. The five-foot roadway consists of embedded gravel with well-rooted grass over the surface which is mowed on a regular basis and has been routinely used as cars pass each other as they proceed in opposite directions on our concrete road. The Fire Department and large trucks have been using the Manawai Road and the five-foot sections for decades without any incident. And although there may be a theoretical issue regarding the different surfaces that make up the total 20-foot wide road,

there has never been a problem. Trucks, including fire trucks, have used Manawai Road on a regular basis without incident. The road is a neighborhood road so vehicles and trucks are not traveling at high rates of speed; therefore, the differing surfaces are not a problem.

Number two, requiring us to expand the ten-foot concrete roadway in front our proposal, three-lot subdivision, is not going to provide any improvement to public health and safety as such, and is not a public health and safety issue. The fact that the code has been changed over the years does not result in the conclusion that the existing roadway is detrimental to public health and safety. The granting of the variance is not going to result in a notable increase in the use of the current roadway nor will the theoretical minimal additional use affect public health and safety in a negative manner. The road is not currently heavily traveled considering the large lots and low density of the subdivision.

Number three, the department is asking we improve the roadway in front of our property by adding extra concrete, five-foot wide, on each side of the current ten-foot wide roadway. This modification is not going to have any impact on the roadway usage or make Manawai Road safer. The department has already granted multiple subdivisions without imposing the requirement. In fact, there are four subdivisions: three on one side of me and one above me that have concluded their subdivision plans, got their subdivision approval through the Fire Department, and they never once tried to impose this requirement. The department have apparatuses which have down on the road on a regular basis have always had more than adequate access without any problems whatsoever. Manawai Road is relatively short. It's three-quarters of a mile long, and has only a few parcels closest to Hana Highway which could be theoretically subdivided, and there would be no reason to impose a burden on these property owners either should they choose to subdivide.

Number four, the final issue, the only reason why the road is substandard as the department says is that the rules and regulations over the years have changed. The road itself is grandfathered in. And at the time it was created, it was deemed satisfactory to the County of the Maui and the Fire Department. Defining it as substandard because of its change in code does not mean the roadway is not safe, usable, nor has adequate access, inadequate access. The County should not place the burden on a single property owner merely because they changed their rules and regulations over time.

Thank you. That's my rebuttal to the County Code, sir. Do you have any questions?

Chairman Tanner: Mr. Strini, let me interject for one second here on a procedural manner that I neglected to do at the beginning. Are you agreeable to the waiving of the reading of the staff report which you have a copy and we have a copy?

Mr. Strini: Yeah.

Chairman Tanner: OK. And we'll make that part of the record.

Mr. Strini: Yeah, OK. I mean mine was just a rebuttal to that.

Chairman Tanner: Yes.

Mr. Strini: No problem.

Chairman Tanner: OK. Do you have a power point presentation or is that your presentation?

Mr. Strini: I submitted an application. I was hoping you guys read it.

Chairman Tanner: Yes, no, that's fine.

Mr. Strini: I sent pictures along here. She could bring up the lot. We were just . . . (inaudible) . . .

Ms. Trisha Kapua`ala: So this is a Google map of the Haiku area in the Ulumalu vicinity. And you can see here Hana Highway coming from town or the Kahului/Paia side. This is . . . to the right is going towards Hana. And the applicant's property is here on Google map. And again, we have the County's imagery which has a little closer view. There is the applicant's property off of Manawai Place. So delineated in yellow is the applicant's property and you're able to see the roadway.

Mr. Strini: So if I might just interject here?

Ms. Kapua`ala: Wait. Hold on, sir.

Mr. Strini: So I just might like to show . . . maybe you could back up just a little bit? So you get more . . . back out, yeah. So the subdivisions, the other subdivisions, that have already been granted and have not had to widen the road is this subdivision and the subdivision closer to the water. So I'm in the middle of all these subdivisions. So I have 341 feet of frontage on Manawai. That is what . . . it's that little 341 feet that they want me to widen saying that it's a public health issue and safety. So in reality, it will not change access on Manawai because the road is 20 feet wide already. Anyway, it's all in the report, but it kinda shows . . .

Chairman Tanner: OK. Board Members, do we have questions for the applicant?

Mr. Ray Shimabuku: So this picture is that Manawai or is that your driveway?

Mr. Strini: That's from the very top of Hana Highway looking down Manawai. It's . . . by the local realtor standards, it's one of the most well-maintained roads in Haiku, but it's a private roadway to all our lots.

Ms. Jacqueline Haraguchi: So the three other subdivisions that got approved . . .

Mr. Strini: Four.

Ms. Haraguchi: Without being requested to do improvements, how long ago were they?

Mr. Strini: 2003, 2002. I've been trying to get this subdivision for ten years. This is the last hurdle.

Mr. Shimabuku: Can we get that verified? Trish, can you verify that it was subdivided without the requirements of widening?

Mr. Strini: Yeah, I have a list of the subdivisions. It's right on my application for a variance. The TMKs are listed, the four of the resubdivisions that were completed to date including, the Richmond, the Kelly Subdivision, O'Connor Subdivision, and the Vanderbilt Subdivision, to answer your question with this TMK.

Mr. Shimabuku: Yeah, that's your claim. I'm just trying to get it verified by the County.

Ms. Kapua`ala: Mr. Strini, would you be able to point out one of those TMKs on a map?

Mr. Strini: I can point out all of them. In fact, they're on the maps that I provided in the application. It's quite clear. If you look at this map, it should have in your application. It's color-coded to make them look really easy. On the one that's not color-coded, the one above me, Mr. Richmond; the one below me is the Kellys; further below me is the O'Connors; and at the end is the Vanderbilts.

Mr. Howard S. K. Kihune: Mr. Strini, I have a question. You have an agreement to maintain this road or is it totally private?

Mr. Strini: It's totally private. We maintain . . . Manawai Association maintains it.

Mr. Kihune: Among the homeowners there?

Mr. Strini: Yeah, the homeowners.

Mr. Kihune: And does that start from the County highway, or does it start somewhere down the road, or when does it turn private?

Mr. Strini: It starts at the County . . . Hana Highway?

Mr. Kihune: Entrance?

Mr. Strini: Yeah.

Mr. Kihune: OK. Thanks.

Mr. Chad Fukunaga: How about the lots across the street? Can they . . . ? They appear as though they can be further subdivided.

Mr. Strini: I'm sorry, I don't understand your question.

Mr. Fukunaga: The lots across the street on the . . . I guess if this map is oriented properly, the lots on the east side of the roadway.

Mr. Strini: That's a gulch, but it's a lot. I mean, it's . . .

Mr. Fukunaga: Well, there appears to be one, two, three, four, maybe four other lots?

Mr. Strini: Oh, you mean the small lots right there? Yeah.

Mr. Fukunaga: Yeah.

Mr. Strini: What about them?

Mr. Fukunaga: Can those be further subdivided?

Mr. Strini: No, they're too small.

Mr. Fukunaga: How many acres are they?

Mr. Strini: You know, it says right on there, five, five, five, five. They've already been subdivided. Everything has been subdivided.

Chairman Tanner: Do you know for a fact that these other subdivisions had variances or . . . ?

Mr. Strini: No, they didn't.

Chairman Tanner: They did not?

Mr. Strini: No.

Chairman Tanner: So the subdivisions that you're referring to on this chart were done prior to this code?

Mr. Strini: No.

Chairman Tanner: They weren't, so they would need a variance.

Mr. Strini: Well, according to the way I understand it, the code goes back to 1997, right?

Chairman Tanner: I don't know that. But what you're saying is that they received a variance, and we should use that as a precedent, but you don't know that they received a variance.

Mr. Strini: I never said that they received a variance. You did. I never suggested that. I said they got their subdivisions with Fire Department approval. For some reason the Fire Department has brought up this rule to make me pave my 341 feet of my frontage. They didn't enforce that on the other four subdivisions.

Chairman Tanner: OK. So we're not looking at any precedence for any previous variance?

Mr. Strini: Not that I know of.

Chairman Tanner: OK.

Ms. Haraguchi: Can I ask the Fire Department when did the code change?

Lt. Peter Davis: I believe the code changed in 2001 or, I'm sorry, I think we started to review



subdivisions in 2001. The code was already in place, but we didn't start reviewing subdivisions till 2001.

Ms. Haraguchi: Mr. Strini, I have another question. In number four of what you turned in to us, you said that the road itself is grandfathered in? Do you have a letter or anything from the Fire Department saying that it is grandfathered in as being standard or substandard?

Mr. Strini: Well, when they . . . when Mr. Martin developed the subdivision, and he got the permits, that included the roadway for the whole subdivision. It was a fast track back in those times. They called it a fast track up to the Water Department and Fire Department.

Mr. Joseph Alueta: Mr. Chair, was this a . . . I'm just questioning, was it a consolidation and resubdivision?

Mr. Strini: Yes, yes.

Mr. Alueta: OK. So consolidation/resubdivision, I'll let Public Works come. They can address that as far as what requirements, but they don't have the same requirements as if it's a new subdivision. I processed the minor permit for Mr. Martin.

Mr. Fukunaga: . . . (inaudible) . . .

Mr. Alueta: . . . (inaudible) . . .

Chairman Tanner: Chad, we gotta have it on the record, so if you could speak into the mic.?

Mr. Fukunaga: I was just asking Joe if a five-acre lot can be further subdivided.

Mr. Alueta: It can be depending on when their lot was created based on if they were subject to the 1997 sliding scale. So if they were done and they were just . . . I guess the magic number to do two-acre ag lots was you had to have a . . . anything 15 acres or less could basically do . . . chop it up into two-acre ag lots. So it all depends on when this was originally done. And it also has to do with, you know, water capacity, but mostly, the sliding scale, because once you get to a bigger lot, then you have to create so many lots that are five acres and so many lots that are, you know, two acres.

Mr. Fukunaga: OK. Thank you.

Mr. Shimabuku: So that's when number three would come in to set precedence for future subdividers, then, as stated in the County analysis?

Mr. Alueta: Sorry, can you repeat the question?

Mr. Shimabuku: With what Chad just said as far as future subdividers, the last sentence in number three of the staff analysis in regards to setting the precedence for future subdividers, that is actually a true statement where those lots, like Chad mentioned, could be divided into two-acre lots or whatever?

Mr. Alueta: That is a potential. If they are . . . again, if the subdivision was done through . . . depending on when the subdivision was done, then they potentially did not fall into the new 1999 ag bill. And so if the lots were created prior to that bill, then each one of those lots could be resubdivided down to . . . because they were already in prior to the ag bill. So that was the big controversy. When the ag bill happened, it basically said . . . it created new . . . a sliding scale for ag lots. And the magic number, as I said, was 15 acres. So if you had a lot that was 15 acres, you could chop that up into, theoretically, seven two-acre lots. If you had a 20 or a 25-acre lot, you would be able to do maybe nine lots meaning, you would have to have two lots that were five or five-acres, and the rest would be two acres. And 16.30A had . . . So I'm not sure where this subdivision falls into that analysis.

Mr. Strini: Isn't it correct, though, that once you do a subdivision, you cannot do it again? And that's where these lots that he's asking about fall into. It's like if I subdivide mine into three lots, they can't be subdivided again. And the lots he's asking about are further closer to the ocean. Those have been subdivided.

Mr. Alueta: No, that's not necessarily true. So if you had a . . . say you had a ten-acre lot, and you could theoretically subdivide that into five two-acre lots, you could subdivide into three lots meaning creating a two-acre lot, a two-acre lot, and then one lot that's six acres, and reserve the rights for future subdivision to the six acres, which is what . . . does do. So you'll see that. That's a pretty common practice. Say somebody has a 30-acre lot. They will subdivide out some big lots, five acres, five acres, and then keep a 20-acre parcel and say I'm gonna . . . in the future, I'm planning to subdivide this into more lots, and they'll reserve that . . .

Mr. Strini: So how can we find out if these five lots . . . four lots at the bottom are subdividable?

Mr. Alueta: That would be part of subdivision. When they got their preliminary, they would have their . . . who was reserving it.

Mr. Strini: Because I'm pretty sure that they cannot be subdivided anymore.

Mr. Alueta: Yeah, I don't know when the subdivision was. That's why . . . again, it's all circumstantial. It's like when was this subdivision originally created and were they subject to the new rules.

Mr. Fukunaga: And that's preliminary subdivision approval, not final subdivision, right? As long as they had preliminary subdivision approval before '97?

Mr. Alueta: I believe you're correct, yes.

Chairman Tanner: Mr. Strini, I've got a question regarding your letter in response to staff analysis on the first page about midway down. You say the five-foot roadway consists of embedded gravel with grass over the surface. In looking at the photographs, there really only appears to be a little bit of gravel.

Mr. Strini: Which photograph are you referring to?

Chairman Tanner: The very first one.

Mr. Strini: Oh, that little bit of gravel was just recently put on there because somebody was driving over it. If you look on page two, you'll see there's no gravel. Page three, there's no gravel. Page four, there's actually turnouts that have been concreted in. And a little bit of gravel, somebody put in here on the fifth one, but again, it's most . . . the sixth one, all concrete. It's been like this for 20 years: turnarounds, concrete turnarounds.

Chairman Tanner: And this road is ten feet wide?

Mr. Strini: Yes, ten feet. It's 20-plus, but it's ten feet of concrete. What you're looking at is ten feet.

Mr. Kihune: Question, Mr. Strini, on the second to the last page of your totals, there's a turnaround at the bottom of this road. And how wide is that?

Mr. Strini: I would say 15 feet.

Mr. Kihune: OK. With current fire requirements, I'm gonna ask the Fire Department, is that adequate to turn around one of your vehicles?

Lt. Davis: When Mr. Strini says "15 feet," what does he mean by 15 feet?

Mr. Strini: Well, I'm just looking at the concrete.

Lt. Davis: Across, or outside turning radius, or . . . ? Basically, our vehicles for that area would need at least a 30.5-foot outside turning radius, which means from one end of the circle to the other, it needs to be 35 feet for a truck to turn around in that cul-de-sac.

Mr. Kihune: The complete turning radius of the circle itself?

Lt. Davis: Yes.

Mr. Kihune: OK.

Mr. Strini: Then if you look on Picture 7, that's more than adequate, a turnaround area, as you . . . (inaudible) . . . also. There's two turnouts. The picture you are referring to is at the end of the road, and this is at the end of my property—Picture 6. I don't believe the turning radius was an issue.

Mr. Kihune: No, I'm just curious and I asked that question because it seems like to be, to me, another issue here with regards to turning radius for a vehicle to be able to respond to someone on this private road.

Mr. Strini: I come down a lot.

Mr. Kihune: That, I don't have any idea, because I'm not there to visualize or record that but . . . Has any . . . ? I mean there's a question too. You say that there's gravel five feet out on each side

of the road. Has that been tested? A test so that you can present and show that you do have gravel there? I mean that's a question I think that needs to be answered because you're stating that you're supporting this by basically communicating that that's true, but I don't have any . . . I'd like to see a sample, a compacted sample, to produce that . . .

Mr. Strini: . . . (inaudible) . . .

Mr. Kihune: Sorry. I'll let you have your minute. So that we can adequately take a look at it and say, yeah, he's got two feet of gravel that's five feet wide that's compacted and adequate to handle a 40,000-pound truck or whatever that may be because as we all know that area, it rains a lot. And the minute that soil gets wet and you got a truck of that size coming down that road to respond, you don't wanna have another emergency for another emergency for the vehicle that responded. And I can see where this is headed to some degree.

Mr. Strini: Well, we have had to dig up the water lines on the west side of the drive to repair them. And this is how I know about the gravel because we got to dig through it. And I didn't supply a compacted gravel report because it was \$4,000. And I just didn't have the money to do that. I looked into it because I thought that would cut to the chase, and we'd all understand that the roadway is pretty darn compacted, but I couldn't afford it.

Mr. Kihune: I think that a substantial . . . or some evidence that shows the entire length of that private road is compacted with five feet of gravel on each side might be really helpful for your case to some degree.

Mr. Strini: Well, my case is . . .

Mr. Kihune: Or your appeal. Not appeal, but for your variance, sorry.

Mr. Strini: I'm requesting a variance to . . . for my 341 feet in the middle of four subdivisions. It's not like they're gonna change the roadway on either side of me. Why should I have to change the little tiny piece of roadway, 341 feet, concreted five feet on each side of the ten-foot driveway? That's my real application for this variance here.

Mr. Kihune: Well, I'm just trying to stick to the fact and the fact is that you stated the five-foot compacted and it's covered with grass. And if there can some demonstration that that entire length is compacted and meets the standard of some sort, you might have a little bit of an easier time trying to get through this to some degree.

Mr. Strini: Well, I've only lived there for 13 years and seen it during all weather conditions. We've never had a vehicle stuck. We've seen the fire trucks go up and down on our road on the concrete for years. I cannot attest to it compacted to any specific standard other than it's been there for 20 years and nobody's ever gotten stuck on it. We have turnouts so people can turn out on concrete. And the people coming up the roadway don't have to get off the concrete. We have signage. Everybody abides by it. Fire trucks go up and down the road. Concrete trucks, all the time. Garbage trucks every week.

Chairman Tanner: Trisha, do we have any letters of support or opposition to the variance?

Ms. Kapua`ala: No, sir, none.

Chairman Tanner: Thank you. Mr. Strini, do you have any letters?

Mr. Strini: No.

Chairman Tanner: OK.

Mr. Fukunaga: I'd like to ask the Fire Department how wide is the wheel base on the fire truck.

Lt. Davis: Depends on what truck it is but on an average it's probably about nine feet.

Mr. Fukunaga: And the widest truck you have?

Lt. Davis: Well, the widest truck we have . . . our articulating rear axles, which can move out to a distance of roughly about 11 feet when it's fully articulated.

Mr. Strini: But there'd be no need for that on Manawai, would you think?

Lt. Davis: I don't know.

Mr. Strini: In your professional opinion, you don't know?

Lt. Davis: My professional opinion is that the road is substandard.

Mr. Strini: No, I didn't ask that. I'm asking about the articulated vehicle that you just talked about. Would that ever be a reason to take down Manawai?

Lt. Davis: Possibly, depends on what's happening down at Manawai in the future. I don't know.

Mr. Strini: Could you give me an example?

Lt. Davis: A structure fire.

Mr. Strini: A structure fire?

Lt. Davis: Yes.

Mr. Strini: OK. And you said that the wheel base was . . . may be nine feet. Isn't it closer to eight feet?

Lt. Davis: No.

Mr. Strini: What is it exactly?

Lt. Davis: Are we talking about the wheel base that travels across the road or are we talking about emergency access?

Mr. Strini: We're talking about the Fire Department trucks that frequent our street, the ones that are sitting in Paia in the buildings there.

Lt. Davis: Nine feet.

Mr. Strini: OK.

Chairman Tanner: OK. At this time, I'm gonna open to public hearing. If there's anybody from the public that would like to speak on this item, please come up to the mic., and state your name for the record. OK. Seeing none, I will close public hearing. We've heard the staff recommendation and the discussion by the applicant with regard to staff's recommendation which he put in writing. Appreciate that. Any further discussion by the Board Members or questions?

Mr. Fukunaga: The way I view this . . . the requirements is that if a roadway is substandard, and aside from the County coming in to improve it altogether, it would get done in parts with certain triggers, one of them being subdivision. There are some lots on the other side of the street that may or may not be able to be subdivided. We don't know that at this point. It's not knowing that there's still a possibility that there could be further triggers along that roadway that would require further improvements to that roadway which would ultimately or potentially, ultimately improve a greater section of the roadway than just Mr. Strini's portion. But if that's not the case, and if Mr. Strini's portion would be the only portion to get improved, then it doesn't, in my mind, seem like it's not as necessary. That's the way I see it.

Chairman Tanner: So we're still facing a couple of unknowns.

Mr. Fukunaga: Seems that way.

Chairman Tanner: And I would agree with the concern for the additional five-foot compacted gravel. You can't see it in the pictures. And so we just . . . I mean, I'm not comfortable taking that and saying that it's a fact. If there are no further questions, do we have a motion?

Mr. Fukunaga: I don't know if there's some way we can verify or should we just vote?

Chairman Tanner: Well, I guess the applicant could request a . . . not a continuation. I'm looking for a postpone to . . . ?

Mr. James Giroux: For your variances, you do have time limitations to give a decision. However, if it is determinative of a fact that is of major importance, the applicant can waive that timeframe in order to have an opportunity to collect that information in order to present it to you. Absent that, you are under a time pressure to give a thumbs up or thumbs down on the variance. The applicant would then be required to wait a year in order to reapply for the same variance with additional information.

Mr. Strini: So you're saying it's up to me to supply information to the lots across the street that I feel are not subdividable. So we need a little bit of proof on those four lots. That would sway your decision.

Mr. Fukunaga: That would help us make a decision.

Mr. Strini: OK. Well, then I guess I request a time to take care of that.

Chairman Tanner: Right. In my mind, I still feel like there are two issues. And one is the issue that you discussed about the possibility of further subdividing. And the other issue was the claim that the five-foot aprons are compacted gravel. I think both of those are relevant concerns that I would have as a Board Member before making a decision on a variance. But I can't direct you to get those or get anything. We're prepared that we can go forward and make a decision on the variance right now. And as you've heard from Counsel, it would be another year before you would be able to come back. Or we can defer this pending more information and you would gather as much or as little as you feel would be necessary to present your case again.

Mr. Strini: Well, that sounds like that's what I should do is some proof that these other lots cannot be subdividable. That would put me in the middle of the end of the subdivision. And as far as the compacted gravel, I mean, I could dig out chunks of earth and take pictures of it and show you, but I don't have \$4,000.

Chairman Tanner: Yeah, and I understand that. And for me, that would be helpful.

Mr. Strini: Yeah, OK. I can show that because like I said, we dig up the water lines often to prepare. And the road is . . . this was done 20 years ago so . . .

Mr. Kihune: I'd hate to have you pick up additional costs, Mr. Strini, but I think it's important for you to get this variance so that you can go and subdivide. You gotta prove to . . . bring some information to the table regarding that five-foot wide on both sides. I mean, it's important. Should have to meet current compaction tests for roadways and stuff so that we're assured that something . . . you know, that we can make a decision. If we make a motion today, it may not be favorable. I'd really like to know what that five-foot is on both sides. Taking tests up and down that 341 feet is gonna be imperative so that we know that it can handle that 40,000, 50,000-pound truck when it has to come down that road for a major fire.

Mr. Strini: The reason I didn't was because of the \$4,000 that they wanted to test that. And I figured that if I didn't get the variance that I'd put that \$4,000 towards concreting it. But I'll just have to see what I can do. See what I can come up with. Either dig trenches and show what it is . . .

Mr. Kihune: Let me ask you another quick question. Mr. Chair?

Chairman Tanner: Sure.

Mr. Kihune: What is your intention for the subdivision? What are you planning to do with those lots?

Mr. Strini: Well, I was gonna give 'em to my daughter. Unfortunately, she passed away. So now I think I'm gonna split 'em in a divorce because this has taken so long, and the economy has tumbled, and we've almost lost the whole project. So this is the last hurdle that I was trying to get through. It's only a three-lot subdivision. I would like to remain on five acres of it with my . . . where I live now, give five acres to my wife, and sell the two acres to appease the bank to change the loan

on the property.

Mr. Kihune: Again, I'd like to see a little bit more information on that gravel.

Mr. Strini: OK, well, I would like to try and provide that.

Chairman Tanner: OK. So we have a request from the applicant for a deferral to gather more information. Do I have a motion to approve the deferral?

Mr. Fukunaga: I motion to approve the deferral.

Chairman Tanner: Do I have a second?

Ms. Haraguchi: Second.

Chairman Tanner: OK. So we got a motion and a second to defer it. And we're in discussion period for a waiver. So within our rules, there's a time deadline that you're entitled to get an answer to your variance on this. So what we need is a waiver for that time deadline.

Mr. Strini: OK. Is that a verbal waiver?

Chairman Tanner: Yes.

Mr. Strini: Yes, then I waive that timeline.

Ms. Kapua`ala: Mr. Chair, could we go ahead and schedule that continued meeting while the applicant is here? How long do you think you would need to do your research and bring a new presentation to the Board?

Mr. Strini: A couple weeks. The sooner, the better. How do I find out about the four lots in question? Who should I contact? You?

Mr. Alueta: Well, no, but I have the answer, at least, for the bottom one, if you want it.

Chairman Tanner: OK. Yeah.

Mr. Alueta: The bottom lot that he talked about at the very end, the subdivision for just that lot, it was in the middle of the transition between the ag bill coming into play and the old rules and the new rules. And so Council had adopted preliminary rules and adopted 2636, an ordinance, basically, for three months that basically prohibited any further . . . any agricultural subdivision. And if somebody wanted to do a subdivision in the ag district, they would basically have to . . . they would grant it, but they would restrict any further subdivisions in the future. And that person signed an agreement. So the bottom lot does have a restriction pursuant to Title 18. It wasn't by Title 19. It was during the subdivision restriction. So none of those bottom three lots could be resubdivided.

Mr. Strini: So that answers the question.



Chairman Tanner: It does answer that question, yeah.

Mr. Alueta: I do not know about the other lots that he talked about.

Mr. Strini: That's the ones he's referring to.

Mr. Alueta: I'm only talking about the one . . . the three lots that were created at the very bottom of the subdivision.

Mr. Strini: He's got the map right there. It shows the lots.

Mr. Alueta: Parcel 5.

Mr. Fukunaga: Yeah, that parcel hardly touches the road. Do you know if . . . that wasn't created in the same subdivision as say, Parcel 52, 53, 54, and 55?

Mr. Alueta: No, no, what happened was all of the lots that you see right now were pre-subdivision. The one in blue that he's highlighted, that's the one that . . . that has been cut up into three smaller lots. It was originally, 16 acres. And it was originally cut up into like some five-acre lots. And that subdivision that created those three five-acre lots does have a restriction that prohibits them from being cut up into two-acre . . . into smaller lots. That's the only one that I've been able to . . . in my quick research.

Mr. Fukunaga: But you think Lots 52 to 55 were pre that subdivision ordinance?

Mr. Alueta: No, because I believe they were . . . they have not been subdivided yet. So they would be . . . they theoretically could be cut up.

Chairman Tanner: OK. We're gonna have to take a five-minute break. So we'll be back at ten till.

(A recess was then taken at 2:48 p.m. and the meeting reconvened at 2:55 p.m.)

Chairman Tanner: So when we left off, Chad, you had comments?

Mr. Fukunaga: No, that's it.

Chairman Tanner: You're satisfied?

Mr. Fukunaga: I think we still need further . . . well, in my mind, I would like clarification on whether or not those lots could be subdivided or not. That would help my decision.

Chairman Tanner: OK. So at this time, I would be looking for a motion to defer. Oh, I'm sorry. We had a motion to defer and a second, and we're in discussion. So any further discussion on that? OK, I'll call for a vote. All those in favor? Any opposed?

It was moved by Mr. Fukunaga, seconded by Ms. Haraguchi, then

**VOTED: To defer this item pending further information as discussed.**

**(Assenting: C. Fukunaga, J. Haraguchi, R. Shimabuku, P. De Ponte,  
H. Kihune.)**

**(Excused: B. Santiago, T. Espeleta, G. Abbott.)**

Chairman Tanner: **So the motion to defer passes.** And did we set a date, Trisha?

Ms. Kapua`ala: At the applicant's request, we'd like to continue this item till August 8<sup>th</sup>.

Chairman Tanner: August 8<sup>th</sup>. So if the Board Members would retain their information from this variance till August 8<sup>th</sup>. Thank you, sir.

Mr. Strini: Thank you.

Chairman Tanner: OK. If the staff would read the next item on the agenda?

- 2. WAYNE I. ARAKAKI ENGINEER, LLC representing VALLEY ISLE FELLOWSHIP requesting a variance to allow the proposed extension of two (2) 8-inch waterlines-to be looped with a 12-inch waterline to Waiale Road, with one (1) fire hydrant to be installed at the intersection of Waiale Road and Kokololio Street, and one (1) fire hydrant to be installed within 150 feet of the proposed development, whereas Maui County Code, §16.04B.140 requires the installation of a waterline along Waiale Road, with fire hydrants spaced every 500 feet, for the Valley Isle Fellowship Church (Building Permit No. B T2012/1456) to be located off of Honoapiilani Highway, in the vicinity of Waikapu, Wailuku, Maui, Hawaii; TMK: (2) 3-5-002:012 (BVAV 20130007).**

Ms. Kapua`ala read the agenda item into the record and presented depictions of the project site and surrounding areas.

Ms. Kapua`ala: I have Officer English, the Captain of the Fire Prevention Bureau . . . I'm sorry, Lieutenant, thank you . . . that gave me a water map of Waikapu Gardens Subdivision. So I have it available if you guys would like to see that. And other than that, may I introduce Captain Paul Haake and Lieutenant Scott English of the Fire Prevention Bureau. They're here to answer your questions. And the applicant is also in the audience. Thank you.

Chairman Tanner: So if the applicant could come forward to the podium? And if you'd just state your name at this time?

Mr. Wayne Arakaki: Good afternoon, Board Members. My name is Wayne Arakaki, the consulting engineer for the church, Valley Isle Fellowship.

Chairman Tanner: Thank you. At this time, are you agreeable to the waiving of the reading of the staff report?

Mr. Arakaki: Yes.

Chairman Tanner: OK. And if you wanna go ahead and get started, we can do that now.

Mr. Arakaki: OK. So this application is Valley Isle Fellowship. And primarily it's for . . . to modify the requirements for fire protection on a previous subdivision. This is the entryway to the church site. In the background is the West Maui Mountains. And the tax map key is 3-5-2: parcel 12.

This is the church site. We did get a grading permit. And the site has been prepared for the parking lot and the new church. This is another picture, a view of the parking area, and it's facing the West Maui Mountains.

This is the property across the church site. The reason why I took this picture is just to show you that most of the area is undeveloped. So there's a lot of vacant land. This is another picture. This is looking towards Kihei. And then to the left is the vacant site. To the right is the church site. And then again, you notice how vacant it is. It's not developed. On the left is the church site and then on the right, it's vacant property looking towards West Maui Mountains. This is Kokololio Street. The church site is on the right. And then on the left is the Spencer Homes Project.

One thing you should notice along this road, even though it's developed on one side, there's no fire hydrants, and there's no water line. So the church is gonna be providing the water lines and the fire hydrants for this particular area.

Again, we are proposing, and this is under the advisement of the Fire Department, this is the corner where we wanna extend the 12-inch line, and the fire hydrant would be installed at this corner. The 12-inch line will also be readily available for future extensions of the line so we can extend along Waiale Road.

This is a location map. Sorry, very difficult to read, but let me see if I can get another map. This is just showing the pipe lines and the location. This is the Valley Isle Fellowship. This area here is the Spencer Homes' water line. And the item that's called right here is the 12-inch water line that we're gonna extend. The way that we're gonna do it is that this is a 12-inch water line that feeds Spencer Homes. And then there's an eight-inch line that goes here and an eight-inch line goes here. And what we're gonna do is just duplicate the 12-inch line on the other side so we should be able to get the same flow.

This is the Valley Isle Fellowship and right at this corner is where we propose to do a fire hydrant. We did install a fire hydrant here where the water meter is so that has been installed under the Water Department's directions. This is the project site. This is the 12-inch water line. This is the fire hydrant that we propose to do. The water line is gonna extend. We're gonna have a double detected check, and it's gonna be under the Water Department's water source, but we're gonna be putting fire hydrants wherever it's required with the building permit. So this is the parking lot. This is the church area. And then this is a driveway that goes to the church. This is the fire hydrant that was installed and in the back is where the water meter is located. So that ends my presentation. If you have any questions?

Mr. Shimabuku: I have a question. So that fire hydrant right there, the 12-inch water line is actually installed already?

Mr. Arakaki: No. We're working with the Water Department and the Fire Department. I have plans in for this 12-inch water line. But we have some problems because we're trying to attain the 2,000 gallons per minute that's required for this kind of project. And the Water Department is trying to figure out what's wrong because we're not getting the 2,000 gallons a minute. Theoretically, we're supposed to be getting that amount. So the plans are in the Water Department, but like I said, we're just trying to figure out how we can attain the 2,000 gallons a minute.

Mr. Shimabuku: So on that map, where would the installed fire hydrant be?  
That one, yeah, where is that on the map?

Mr. Arakaki: The fire hydrant would be located right over here. This is Waiale Road and then this is the Kokololio Street. That's the intersection.

Mr. Shimabuku: Oh, so that fire hydrant is the existing fire hydrant?

Mr. Arakaki: No. We have an existing fire hydrant that's here that's on the site, yeah? But what we're gonna do is we're gonna put another fire hydrant here at the intersection.

Mr. Shimabuku: So what's feeding that fire hydrant now?

Mr. Arakaki: What--this one here?

Mr. Shimabuku: No, the one on top, yeah.

Mr. Arakaki: Oh, we extended one eight-inch line from the Spencer Subdivision. And that eight-inch line, we're gonna be looping with a 12-inch.

Mr. Shimabuku: Oh, OK.

Mr. Fukunaga: Wayne, so specifically, what are you seeking a variance from? Clarify for us, please.

Mr. Arakaki: The church bought this property I guess from Wailuku Ag. And when most of the developers, these large landowners, they do subdivisions called large lot subdivisions. And large lot subdivisions, you don't have to do improvements like fire protection or roads. So it gets deferred to the next guy. So the church is actually responsible to do fire protection requirements from the previous subdivision. Now, it doesn't work out because their development is different. Had it been like a residential or some other subdivision, that eight-inch line would be OK. But what we're doing is we wanna do it in phases. Normally what would happen is that, this is one ag lot, so the requirement would be a fire hydrant here, extend the line another 500 feet, and keeping going down this road, and possibly even up to this road. So it doesn't really fit with their development plans. So what we're trying to do is defer that requirement, and then as the property gets developed, we'll put in the required fire hydrants or water line extensions for future development. But for now what we're doing is doing a 12-inch line so we get the 2,000 gpm, put a fire hydrant along Waiale Road, and put in fire hydrants within the church area to take care of the fire protection.

Mr. Fukunaga: So basically you're saying you are just developing a portion of a large lot, and you wanna defer the improvements into the balance when that large lot is developed?

Mr. Arakaki: That's right.

Mr. Fukunaga: And do you know what the plans are for the rest of the large lots?

Mr. Arakaki: Right now, it depends on the church, how it grows. Normally, if there's a lot of people that comes to the church, they're gonna expand. So they're gonna come in with building permits, and work with the Water and Fire Department on fire protection and Building Department. But right now, it's just an open field. If you can understand the financial burden of just getting a church in this area, it's financially difficult, yeah, so they have to do it in phases. But yet, trying to be responsible and provide correct fire protection, building, roads, and all that kinda thing. Do you have any other questions?

Chairman Tanner: I would like at this point if we could hear from the Fire Department.

Lt. Scott English: OK. Good afternoon, Board. I'm Lt. Scott English. I've been working with the applicant on this project. Like I say, they came in October of last year for a building permit for the Fellowship Church. And basically when this large lot was done, we wrote a letter back in 2003 as far as the requirements, and they used the large lot. They said the infrastructure is deferred. And right now, when the building permit came in, I brought them . . . brought it to their attention that . . . for them to develop on this lot, we need to get the infrastructure on Waiale Road which is the frontage of this lot. So basically, extending the fire lines, water mains, on Waiale Road and put in hydrants.

As far as the requirement, I'm not sure if it's gonna stay ag or business. If it's ag, it's every 500 feet. If it's gonna be business, it's every 250 feet. That is still kinda up in the air. I've been working with them as far as what we'd be OK with, so put in a hydrant on the corner of Waiale and . . . I'm not sure the other street, and then we're gonna take a hydrant in along the driveway leading up to the church. Basically, you can see it's pretty much like a flag lot how the driveway is heading up to the church area. So we're gonna install a hydrant along that area so if there is an incident, then a truck will come up the driveway and there is water supply for the church. And then on top of that to reduce the fire flow, they're also gonna install fire sprinklers in the church that would reduce the fire flow down to one area that we have enough fire flow in the area.

We worked with Water Department as far as trying to get the water through that Waikapu Garden Subdivision to feed this, and I guess the last test we had a different amount of water, so it's looking better for them to get the proper water supply, but I did have a condition of them to get the minimum 2,000 gallons a minute which is required for the church area. And if they have that, then pretty much Fire concurs that we can go ahead with this development if all this is installed.

Mr. Shimabuku: Wayne, you think you can meet that requirement of that flow?

Mr. Arakaki: Well, in theory, it works. So I just hope the Water Department comes through with their end.

Mr. Shimabuku: In theory.

Mr. Arakaki: In theory. (Laughter)

Mr. Fukunaga: Chair, I think we have someone from the Water Department here. Can we get their . . . ?

Chairman Tanner: Do we? Great. If we can hear from the Water Department, that would be great.

Mr. Myles Fujinaka: Do you have any specific questions?

Mr. Fukunaga: What is your position on deferring these improvements?

Mr. Fujinaka: Deferring the improvements for the subdivision?

Mr. Alueta: Could you introduce yourself for everyone? Thank you.

Mr. Fujinaka: I'm Myles Fujinaka from the Water Department.

Mr. Fukunaga: Yeah, as far as them deferring the improvements until the balance of the large lot is developed.

Mr. Fujinaka: Yeah, that's a difficult question for us because people are always asking us for a deferral of improvements. This improvement that I think Scott is talking about was a result of the original subdivision which . . . so this improvement has been deferred once already. If we defer the improvement now and the people across the street wanna develop, then we or the Fire Department are gonna tell them this improvement needs to be done, and they would have a valid claim that, well, if you didn't give the church the variance, then they wouldn't have to do it. So it's always hard for us to defer improvements.

Mr. Shimabuku: But if a condition was put in where . . . like as Wayne mentioned that I guess they would follow the requirements depending on the zoning of the lot that they would go ahead and put whatever is necessary. So it all depends on what the church is gonna build actually or not build.

Mr. Fujinaka: We tend to look at a church as a commercial-type project.

Chairman Tanner: So the minimum requirement by the Fire Department was 2,000 gallons a minute. Do you feel it can meet that?

Mr. Fujinaka: We don't know yet. Some testing has been done, and the raw data had been provided to the church's consultant, and I'm not sure if they're analyzing that yet or not.

Chairman Tanner: OK.

Mr. Shimabuku: You have an idea of how much you're up to?

Mr. Fujinaka: No.

Mr. Shimabuku: Roughly, a ballpark figure? 1999 maybe?

Lt. English: We did a couple of tests with the Water Department, and just from my curiosity, we did

a flow test at the Rojac Subdivision below that, and we got 2,200 gallons a minute. So that line off Waiko Road which feeds this subdivision has the water. The PRV in-between that's not functioning properly is holding back the water, and we're working on that with the Water Department.

Mr. Shimabuku: I guess I believe Wayne when he said technically it should work.

Mr. Fukunaga: So, Myles, there's no water line on Waiale Road currently fronting this?

Mr. Fujinaka: No.

Mr. Fukunaga: So I guess I misunderstood. So they were gonna bring in a fire line along their driveway and then put a hydrant somewhere along their driveway? Is that correct? And if that is correct, where is that water line tying into?

Mr. Fujinaka: Your question is where that 12-inch water line they're installing is coming from?

Mr. Fukunaga: No. I thought I heard that they were gonna install a hydrant inside of their property.

Mr. Shimabuku: Along the driveway, yeah, was?

Mr. Fukunaga: Yeah. So how is that gonna be fed?

Mr. Shimabuku: I think that's a question for Wayne.

Mr. Arakaki: OK. This is the improvements that we envision where we're gonna have two eight-inch lines coming from the Spence Homes. And we're gonna loop this with a 12-inch line. OK. Now, we're gonna have a lateral, an eight-inch line coming down here. And then we're gonna have a double detector check, so this is considered like a private fire protection. But wherever that's required, maybe a fire hydrant here and one by the parking lot, we're gonna be installing for the fire protection for the church.

Mr. Fukunaga: OK. OK.

Mr. Shimabuku: With the sprinklers inside of the building?

Mr. Arakaki: That's right.

Chairman Tanner: Any other questions for the applicant? OK. I'm gonna open public testimony. If there is anyone who would like to speak that hasn't spoken on this yet, they can speak at this time. OK. Seeing none, I'll close public testimony. Trisha, did you have something? You look like you were . . . ?

Ms. Kapua`ala: I was gonna remind the Board that I have that water plan of Waikapu Gardens Subdivision.

Chairman Tanner: OK. And that's it?

Ms. Kapua`ala: We have an engineer from the Water Department that can interpret that for us. Maybe he can interpret this to the Board. We don't know what this means. This is a water plan. Oh, it looks like Scott also knows.

Lt. English: OK. There's a 12-inch line right here. This is going back to Waiko Road. There's a PRV here that's giving us the trouble. Basically, this 12-inch line comes here. It runs mauka to makai. I'm not sure what the street is. Then it extends to an eight-inch line, back to an eight-inch line going through the Spencer Home Development. OK. So you have one eight-inch lateral going this way and then one on the upper side street. This is the proposed development for the church. So the proposed plan extends this eight-inch line to this street here on the top and bottom. And you saw the 12-inch lateral. So we get the flow from the two eight-inch to provide the 2,000 gallons a minute. Install a hydrant here so there's some kind of fire protection on the bottom. And then we're gonna take a hydrant from here extending into the church area. And like I said, the system has the water. There's just some problems we need to figure out to get that flow that we need.

Chairman Tanner: OK. Any further questions from the Board? I would say having both the Fire Department here and the Water Department here for this variance has been incredibly helpful. And appreciate you folks taking the time out of your day to come down and help us with this. So if there's no further discussion . . .

Mr. Shimabuku: Mr. Chair, having heard the testimony of the applicant and the concurrence of the staff analysis in regards to the criteria of the variance, I'd like to entertain a motion to grant the variance with the standard hold harmless agreement.

Chairman Tanner: So we have a motion to grant the variance with the standard hold harmless agreement. Do we have a second?

Mr. Patrick De Ponte: Second.

Chairman Tanner: Discussion?

Mr. Kihune; My only comments would be that it's appreciated again to have the Water Department and the Fire Department here. And with the Fire Department's blessing knowing that they can achieve the 2,000 gallons per minute that is necessary to provide fire protection for the property, it would be nice to have the church to start their building as soon as possible.

Chairman Tanner: OK. If there is no further discussion, we have a motion and a second to approve the variance. All those in favor? One second.

Ms. Kapua`ala: Thank you, sir. Please note that Fire would like a condition of 2,000 gallons per minute. And also would the Board consider attaching an indemnification . . . I'm sorry, insurance, to this hold harmless agreement in the case of a lawsuit?

Chairman Tanner: So that . . . so the motion would read that in addition to the hold harmless agreement that the applicant would include Maui County as an additional insured for a million dollars?



Ms. Kapua`ala: A million dollars is a standard as recommended in your . . . or suggested in your rules. However, we leave that at the Board's discretion as to the dollar amount.

Chairman Tanner: OK so, Ray, would you agree to including that in your motion?

Mr. Shimabuku: I was wondering if a million dollars was too high an amount. That's the only thing that I . . . as far as the request from the Department of . . . the 2,000. But I don't know. Maybe you can open that for discussion on the million-dollar.

Mr. Kihune: Do we know what the value of the building's gonna be? Are there any estimated value on that building?

Chairman Tanner: Could you state your name, sir?

Mr. Vince Bagoyo: Vince Bagoyo, member of Valley Isle Fellowship. First of all, I just wanna thank the Fire, and Trish, and Planning, and the Water Department for kinda guiding us through this process. They really made it easier for us to come up with a plan to at least not only to meet the spirit of the law, but to meet the code, the fire protection code. So we have no objections of meeting the 2,000 gallons per minute for a two-hour duration for your fire protection. We've been working with Scotty and the Water Department regarding that.

On the value, you know, we're looking at about \$450,000 of the building. Hopefully, it will be cheaper, but that's the budget, budget amount. With regards to the liability insurance, if I can just ask, though, if we just add the County into . . . as a rider into the existing insurance because we do have an existing insurance.

Chairman Tanner: Yes, and that's what it would be. You wouldn't take an additional insurance policy. You would just add Maui County as an additionally insured through your policy.

Mr. Bagoyo: Yeah, that's fine. That will be fine.

Ms. Kapua`ala: Can I ask a question?

Mr. Bagoyo: Sure.

Ms. Kapua`ala: Is there a million-dollar insurance policy?

Mr. Bagoyo: It's \$450,000 . . . no. (Laughter) I think so, yeah, it's a million-dollar policy.

Ms. Kapua`ala: OK. I just wanted that stated for the record.

Mr. Bagoyo: Thank you, Trisha.

Mr. Shimabuku: OK, well, with that said, as far as the requirements for the 2,000 and the million-dollar insurance requirement would be put into the motion.

Mr. Bagoyo: Yeah, just for your information, if I may add? As Scotty said earlier, it's gonna be

sprinklered. And the fire protection for that fire flow requirements would substantially be reduced as well.

Chairman Tanner: Thank you.

Mr. Bagoyo: Thank you.

Chairman Tanner: OK, so we have a motion and a second. Any further discussion? All those in favor? Any opposed?

It was moved by Mr. Shimabuku, seconded by Mr. De Ponte, then

**VOTED: To approve the variance request with the condition as proposed by the Fire Department, and also, the standard hold harmless agreement naming the County of Maui as an additional insured on a one million-dollar insurance policy as discussed.**

**(Assenting: R. Shimabuku, P. De Ponte, J. Haraguchi, H. Kihune, C. Fukunaga.)**

**(Excused: B. Santiago, T. Espeleta, G. Abbott.)**

Chairman Tanner: **The variance is granted.** And thank you, applicant. I appreciate everybody's patience. It was a little bit of a long meeting, but I appreciate . . . We turned the lights off on you, but you stayed with us, so thank you. (Laughter)

#### **D. APPROVAL OF THE MAY 23, 2013 MEETING MINUTES**

Chairman Tanner: OK, so for the Board, we'll continue on with the next item on the agenda which is the approval of the meeting minutes of the regular meeting of the Board of Variances and Appeals of May 23<sup>rd</sup>, 2013. Do I have a motion to accept those minutes?

It was moved by Mr. Kihune, seconded by Mr. De Ponte, then

**VOTED: To accept the May 23, 2013 meeting minutes as presented.**

**(Assenting: H. Kihune, P. De Ponte, R. Shimabuku, J. Haraguchi, C. Fukunaga.)**

**(Excused: B. Santiago, T. Espeleta, G. Abbott.)**

Chairman Tanner: **So those meeting minutes are approved.** And the date of our next meeting will be . . . is that August 8<sup>th</sup>, Trisha?

Mr. De Ponte: July.

Chairman Tanner: July. Oh, you're right, yeah, July. Is it July 8<sup>th</sup>?

Mr. De Ponte: July 11<sup>th</sup>.

Chairman Tanner: July 11<sup>th</sup>. OK. So the next meeting of the Board of Variances and Appeals will be July 11<sup>th</sup> at 1:30, Chad. (Laughter)

**E. DIRECTOR'S REPORT**

**1. Status Update on BVA's Contested Cases**

**F. NEXT MEETING DATE: Thursday, July 11, 2013**

**G. ADJOURNMENT**

There being no further business to come before the Board, the meeting adjourned at 3:27 p.m.

Respectfully submitted by,

TREMAINE K. BALBERDI  
Secretary to Boards and Commissions II

**RECORD OF ATTENDANCE**

**Members Present:**

Rick Tanner, Chairman  
Jacqueline Haraguchi, Vice-Chairman  
Ray Shimabuku  
Patrick De Ponte  
Howard S. K. Kihune  
Chad Fukunaga (2:03 p.m. - 3:27 p.m.)

**Members Excused:**

Bart Santiago, Jr.  
G. Clark Abbott  
Teddy Espeleta

**Others:**

Joseph Alueta, Acting Planning Program Administrator, Planning Department  
Trisha Kapua`ala, Staff Planner, Planning Department  
James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel  
Paul Haake, Captain, Fire Prevention Bureau  
Peter Davis, Lieutenant, Fire Prevention Bureau  
Scott English, Lieutenant, Fire Prevention Bureau