

PURSUANT TO CHAPTERS 91 AND 92, PART I, HAWAII REVISED STATUTES, AS AMENDED; NOTICE IS HEREBY GIVEN OF A PUBLIC HEARING/MEETING OF THE MAUI COUNTY BOARD OF VARIANCES AND APPEALS (BVA)

Members: G. Clark Abbott (Chair), Chad Fukunaga (Vice-Chair), Patrick De Ponte, Teddy Espeleta, William Greig, Howard S. K. Kihune, Raymond Sung, Juanita Reyher-Colon, Max Kincaid Jr.

AGENDA

DATE: March 24, 2016

TIME: 1:30 p.m.

PLACE: Planning Department Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Hawaii

A. CALL TO ORDER

B. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered. Maximum time limits of at least three minutes may be established by the Board. More information on oral and written testimony can be found below.

C. RESOLUTION THANKING OUTGOING MEMBER PATRICK DEPONTE

D. PUBLIC HEARING

1. **MY-KHANH THI NGUYEN AND LOC PHUC TRUONG** requesting a variance from §19.08.060, Maui County Code (MCC), "Residential Yards" to allow the existing dwelling to remain two feet from the front property line and six feet from the rear property line when a 15-foot front yard setback and a 10-foot rear yard setback is required within the residential district for property located at 330 South Alu Road, Wailuku, Hawaii TMK (2) 3-5-006:011 (BVAV 2016/0004) (M. Balberdi)
2. **TESSA MUNEKIYO OF MUNEKIYO HIRAGA representing WV SUB L.L.C.** requesting a variance from §19.36A.010, Maui County Code (MCC), "Designated number of spaces," to allow a reduction of 77 off-street parking stalls for Leilani's on the Beach and Hula Grill restaurants for property located at Whalers Village Shopping Center, 2435 Kaanapali Parkway, Lahaina, Hawaii; TMK (2) 4-4-008:001 (BVAV 2016/0005) (M. Balberdi)

E. APPEALS

In deciding the following Appeals, which are contested cases pursuant to Chapter 91 HRS, the Board is exercising an adjudicatory function. Therefore, Pursuant to Section 92-6 (a)(2) Hawaii Revised Statutes, the following portion of the meeting is NOT a public meeting; and the Board is not required to allow the public to be present or to testify.

1. **CALVERT G. CHIPCHASE AND CHRISTOPHER T. GOODIN OF CADES SCHUTTE LLLP** representing **D AND S VENTURES, LLC** Appeal of the Planning Director's Notice of Violation (NOV 2014/0013) for the zipline activity within the County's Agricultural District without a Special Use permit pursuant to MCC §19.30A.060(H) for property located at 2065 Kauhikoa Road, Haiku, Maui, Hawaii; TMK (2) 2-7-012:086 (BVAA 2015/0002)
 - a. Update on the appeal and on the scheduling of the Planning Commission hearing on the related County Special Use Permit.
 - b. The Board will consider the possible appointment of a Hearing Officer to preside over the above Appeal.
- F. **ADOPTION OF FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER (D&O)**
 1. Having voted on October 23, 2014, to issue a declaratory order concerning variance granted for the property located at 45 Kai Ala Place, Kaanapali, Maui, Hawaii; TMK (2) 4-4-006:011, the Board will consider and may adopt the draft Findings of Fact, Conclusions of Law and Decision and Order declaring effect of variance granted.
- G. **APPROVAL OF THE OCTOBER 8, 2015 MEETING MINUTES**
- H. **NEXT MEETING DATE: APRIL 14, 2016**
- I. **ADJOURNMENT**

AGENDA ITEMS ARE SUBJECT TO CANCELLATION.

AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE BOARD TO CONSULT WITH ITS ATTORNEY ON QUESTIONS AND ISSUES PERTAINING TO THE BOARD'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES AND LIABILITIES, PURSUANT TO SEC. 92-5 (a)(4), HRS.

DOCUMENTS ARE ON FILE WITH THE DEPARTMENT OF PLANNING. THE ADDRESS OF THE BOARD IS C/O DEPARTMENT OF PLANNING, ONE MAIN PLAZA, 2200 MAIN STREET, SUITE 315, WAILUKU, MAUI, HAWAII 96793.

ANY PETITION TO INTERVENE AS A FORMAL PARTY IN THE PROCEEDINGS BEFORE THE BOARD MUST CONFORM TO RULE 12-801-18, RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF VARIANCES AND APPEALS, AND BE FILED WITH THE BOARD AND SERVED UPON THE APPLICANT WITHIN A REASONABLE TIME BEFORE THE MEETING IN WHICH THE SUBJECT MATTER OF THE INTERVENTION IS TO BE HEARD. THE ADDRESS OF THE BOARD IS NOTED ABOVE.

ORAL OR WRITTEN TESTIMONY WILL BE RECEIVED ON ANY AGENDA ITEM SUBJECT TO THE PROVISIONS OF CHAPTER 92, HAWAII REVISED STATUTES AND THE BOARD'S RULES OF PRACTICE AND PROCEDURE, EXCEPT FOR CONTESTED CASES UNDER CHAPTER 91, HRS, AS NOTED ABOVE.

WRITTEN TESTIMONY AND FAXES SHOULD BE RECEIVED AT LEAST TWO (2) BUSINESS DAYS BEFORE THE MEETING TO ENSURE DISTRIBUTION TO THE BOARD. FIFTEEN (15) COPIES OF WRITTEN TESTIMONY ARE REQUESTED IF TESTIMONY IS PRESENTED IMMEDIATELY PRIOR TO OR AT THE MEETING.

THOSE PERSONS REQUESTING SPECIAL ACCOMMODATIONS DUE TO DISABILITIES, PLEASE CALL THE DEPARTMENT OF PLANNING AT 270-7735 (MAUI) OR 1-800-272-0117 (MOLOKAI) OR 1-800-272-0125 (LANAI) OR NOTIFY THE DEPARTMENT OF PLANNING IN WRITING AT ONE MAIN PLAZA, 2200 MAIN STREET, SUITE 315, WAILUKU, MAUI, HAWAII 96793 OR BY FAX NUMBER 270-7634 AT LEAST SIX (6) BUSINESS DAYS BEFORE THE SCHEDULED MEETING.

PLEASE NOTE: If any member of the Board is unable to attend the scheduled meeting, please contact the Department of Planning at least one day prior to the meeting date. Thank you for your cooperation.
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