

BOARD OF APPEALS
COUNTY OF HAWAI‘I

MINUTES
April 12, 2024

The County of Hawai‘i Board of Appeals met in regular session at 9:31 a.m. in the West Hawai‘i Civic Center Council Chambers, Building A, 74-5044 Ane Keohokālōle Highway, Kailua-Kona, Hawai‘i 96740 and via the Zoom online platform. The meeting was called to order with Chair Cathy Lewis presiding. A quorum was established with seven members in attendance.

The full YouTube video of this hearing can be found here:
<https://www.youtube.com/watch?v=U9YZNdFIYkY>

MEMBERS PRESENT (in person): Cathy Lewis (Chair), Rachel Able, Stacey Aguiar, Scott Martin, and Scott Trefethen.

MEMBERS PRESENT (on Zoom): Daina “Noe” Saiki (Vice Chair) and Lisa McNamarra.

ALSO IN ATTENDANCE: Sylvia Wan, Esq. (Deputy Corporation Counsel for the Board), April Surprenant (Staff to the Board), Tiara Cobile (Staff to the Board), and Ashley DeVera (Board Secretary).

There were no members of the public in attendance.

Chair Lewis reviewed online meeting protocols and procedures. Introductions of board members and staff were made.

STATEMENTS FROM THE PUBLIC ON ITEMS ON THE AGENDA

At 9:36 a.m., Chair Lewis called for statements from the public. There were no members of the public in attendance to provide testimony.

Testimony closed at 9:36 a.m.

NEW BUSINESS

**1. JOSHUA WILLIAM MONTGOMERY AND KRISTIE KATHLYN ADAIR
(PL-BOA-2023-000070)**

Appeal of Decision by the Planning Director Dated May 5, 2023, Regarding Notice of Violation and Order (PL-PCV-2023-00401) Relating to Operating a STVR in a Single-Family (RS-7.5) Zoning District
Location: 77-102 Queen Kalama Ave., Kailua-Kona, HI 96740
TMK: (3) 7-7-010:071

This item was called to order at 9:36 a.m. There were no members of the public in attendance.

[*SEE YOUTUBE TIMESTAMP 3:25*] Chair Lewis mentioned the matter has been continued to the June 14, 2024, hearing.

This item concluded at 9:36 a.m.

2. BRIAN O'REILLY (PL-BOA-2023-000089)

Appeal of Decision by the Director of Public Works Dated September 22, 2023, Regarding Penalty Fee for Work Started Without Permit (PW.B2023-001531)
Location: 19-4002 Kalani Honua Loop, Volcano, HI 96785
TMK: (3) 1-9-009:092

PARTIES PRESENT: Brian O'Reilly (appellant via Zoom), Sinclair Salas-Ferguson (Deputy Corporation Counsel for the Department of Public Works), and Stephen Pause (Director of Public Works).

This item was called to order at 9:37 a.m. There were no members of the public in attendance.

[*SEE YOUTUBE TIMESTAMP 5:25*] Mr. Brian O'Reilly, appellant, provided his opening statement.

[*SEE YOUTUBE TIMESTAMP 11:16*] Mr. Sinclair Salas-Ferguson, Deputy Corporation Counsel for the Department of Public Works, provided his opening statement.

[*SEE YOUTUBE TIMESTAMP 15:50*] Mr. O'Reilly testified as a witness on his behalf. Mr. O'Reilly discussed the exhibits A through C that were previously submitted. Mr. Salas-Ferguson stipulated that Mr. O'Reilly's exhibits were to be entered into evidence. Mr. Salas-Ferguson cross-examined. Mr. O'Reilly redirected and provided additional testimony. Board Member Aguiar and Chair Lewis questioned the witness. Mr. Salas-Ferguson followed up with additional questions.

[*SEE YOUTUBE TIMESTAMP 41:15*] Mr. Salas-Ferguson called his first witness, Stephen Pause, Director of Public Works. Mr. Salas-Ferguson questioned his witness and discussed the Department of Public Works exhibit list and the record on appeal, then stipulated to file both documents into evidence; Mr. O'Reilly agreed. Mr. O'Reilly cross-examined the witness, then Board Member Martin and Board Member Aguiar questioned the witness.

[*SEE YOUTUBE TIMESTAMP 1:14:34*] Chair Lewis requested closing statements from both parties beginning with Mr. O'Reilly, followed by Mr. Salas-Ferguson.

[*SEE YOUTUBE TIMESTAMP 1:26:52*] Board Member Aguiar motioned to affirm the Director of Public Works decision on the matter; Board Member Trefethen seconded. Ms. Sylvia Wan, Deputy Corporation Counsel for the Board, requested clarification on the motion. Board Member Aguiar modified her motion to affirm the Director's decision to uphold the one thousand dollar fee that the appellant is seeking to be reversed for the building permit issued PW.B2023-001531, upon which the appellant has paid the fee on October 22, 2023 for an

invoice dated September 22, 2023; Board Member Trefethen seconded. Members briefly discussed the matter. A roll-call vote was taken, and the motion passed with six ayes (Trefethen, McNamarra, Aguiar, Able, Saiki, Lewis) and one no (Martin).

[*SEE YOUTUBE TIMESTAMP 1:37:58*] Chair Lewis requested Mr. Salas-Ferguson to prepare and submit the proposed findings of fact, conclusions of law, and decision and order, within fourteen days and Mr. O'Reilly has ten days from receipt of the order to submit any objections. The final order and decision will be placed on the next agenda for May 10, 2024.

This item concluded at 11:14 a.m.

MINUTES

A motion was made by Vice Chair Saiki to approve the hearing minutes of February 9, 2024, as circulated. The motion was seconded by Board Member Martin. No discussion occurred. An all-in favor vote was taken, and the motion passed unanimously.

ADMINISTRATIVE MATTERS

Status of appeals filed on Board of Appeals decisions – Corporation Counsel

No report provided.

Status of outstanding petitions – Staff

No report provided.

ADJOURNMENT

Board Member Aguiar motioned to adjourn the hearing. Vice Chair Saiki seconded the motion. An all-in-favor voice vote carried the motion unanimously. [*SEE YOUTUBE TIMESTAMP 1:42:36*]

The hearing was adjourned at 11:16 a.m.

Respectfully Submitted,

Ashley DeVera, Board Secretary

A T T E S T :

Cathy Lewis, Chair
Board of Appeals

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