

CERTIFIED MAIL

May 21, 1980

Mr. Leo Fleming  
P. O. Box 396  
Kailua-Kona, Hawaii 96740

Dear Mr. Fleming:

Appeal on Planning Director's Denial Action  
on a Variance Application - Lewis Bush and  
Fred May - TMK: 8-8-19:39

After conducting a duly held public hearing on May 8, 1980; the Planning Commission voted to uphold the Planning Director's denial action on your variance application. Since this action constitutes a denial of your petition for appeal, you may file an appeal of the Planning Commission's decision with the Board of Appeals within ten (10) working days from the date of receipt of this letter in accordance with the following procedures:

1. A non-refundable filing fee of one hundred dollars (\$100.00).
2. Ten (10) copies of a report clearly setting forth the legal and substantive basis for the appeal and shall specifically detail the manner and/or way in which it is alleged that the Planning Director erred in making his determination.
3. Any other plans or information required by the Board of Appeals.

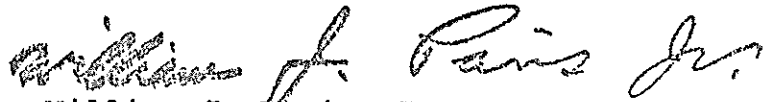
It should be pointed out that the members of the Board have not, as yet, been appointed by the Mayor. Therefore, should you file an appeal it will be held in abeyance pending the appointment of the members of the Board.

MAY 22 1980

Mr. Leo Fleming  
Page 2

Should you have any questions, please feel free to contact  
the Planning Department.

Sincerely,



William J. Paris, Jr.  
Chairman, Planning Commission

NH/lgv

cc: Sidney Fuke, Planning Director  
Corporation Counsel

bcc: Masa, et al (Subd. File)

CERTIFIED MAIL

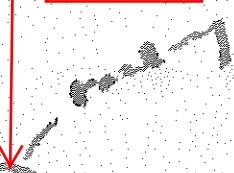
February 8, 1980

Mr. Leo Fleming  
P. O. Box 396  
Kailua-Kona, HI 96740

Dear Mr. Fleming:

Variance Application  
Minimum Building Site Area and Boundary Requirements  
TMK: 8-8-19:39

Roadway



We regret to inform you that after reviewing your application and the information presented at the administrative public hearing on February 7, 1980, the Planning Director is hereby denying your variance requests. The reasons for the denial are as follows:

- 1) That there are no special or unusual circumstances applying to the subject property which do not generally apply to surrounding property or improvements in the same district. Given the County's Unplanned zoning, the maximum number of lots which can be created from a 14.66 acre parcel is two lots. Although the subject property is only .34 acres or 14,810+ square feet short of creating three 5 acre parcels, this situation, in and of itself, does not constitute a special or unusual circumstance. There are several other parcels in the surrounding area with similar situations.

Further, Road "A", which is the subject of the roadway variance request, provides access for all 41 lots in the Honomalino Acres Subdivision. A number of these lots have the potential for further subdivision to a minimum lot size of five acres. All of these parcels are faced with the same development restrictions as the subject property.

- 2) That the owners of the property have not been deprived of substantial property rights which would ordinarily be available. The applicant is seeking to increase the rights related to the property above and beyond the limitations of the zoning and subdivision codes. As indicated above, there are no special or unusual circumstances applying to the subject property which would justify the exceptions requested by the variance application.

Mr. Leo Fleming  
Page 2  
February 8, 1980

- 3) That the granting of the variance will constitute a grant of special privilege inconsistent with the limitations upon other properties under identical district classification. Nine parcels within the Honomalino Acres Subdivision has the potential to be further subdivided to create 20 additional lots. This would increase the number of lots served by Road "A" to a total of 61 lots. If we are to treat all of these properties consistently, this variance request must be denied.
- 4) That the approval of the request would be contrary to the purpose and intent of the access provisions of the Subdivision Control Code. The purpose and intent of the access provisions of the Subdivision Control Code is to provide for the safe and efficient movement of people and goods. In the case of areas zoned for three (3) acre lots or larger the Subdivision Control Code requires a fifty (50) foot wide right-of-way with a twenty (20) foot wide pavement or oil-treated surface. As compared to residential private road subdivision standards there is no provision for reducing right-of-way and pavement width for treatment of the travel surface, that is, paved or oil-treated.

The petitioner proposes to utilize a 12' wide pavement within a 30' graded width. Sections of the existing 12' wide paved road do not allow for two (2) way traffic and is hazardous. Vegetation growing within the 30' graded width has significantly reduced the usable section of the roadway. Furthermore, the grading of the roadway without any additional improvements does not meet the minimum requirements of the Subdivision Control Code. Therefore, the roadway improvements proposed by the petitioner will not provide for the safe and efficient movement of people and goods.

For these reasons, it is determined that the variance request to allow the creation of a 4.02 acre lot in lieu of the minimum building site area requirement of 5 acres and to allow a 12-foot wide A.C. pavement in lieu of the 20-foot wide agricultural standard pavement should be denied.

Please be informed that the final denial order will be forthcoming under separate cover.

The Director's decision is final, except that within ten working days after receipt of this letter, you may appeal the decision in writing to the Planning Commission in accordance with the following procedures:


Mr. Leo Fleming  
Page 3  
February 8, 1980

1. Non-refundable filing fee of one hundred dollars (\$100.00);
2. Ten (10) copies of a statement that clearly sets forth the legal and substantive bases for the appeal and that specifies the grounds which would support a finding that the Director's decision was in error; and
3. Any other plans or information required by the Planning Commission.

Upon receipt of the appeal, the Planning Commission shall conduct a public hearing within a period of ninety (90) calendar days, unless the time is waived by the appellant. Within sixty (60) days after the close of the public hearing or within such longer period as may be agreed to by the appellant, the Planning Commission shall affirm, modify or reverse the action from which the appeal was taken.

Should you have any questions on the matter, please feel free to contact us.

Sincerely,

  
for SIDNEY FUKÉ  
Planning Director

NH:wkm

cc: Planning Commission

bcc Subdivision Section