

CERTIFIED MAIL

September 30, 1981

Dr. Andrew Maeda  
1041 Olioli Way  
Hilo, HI 96720

Dear Dr. Maeda:

Variance Application (V81-21)  
Tax Map Key 2-4-22:121

We regret to inform you that after reviewing your application and the information submitted in its behalf, the Planning Director is hereby denying your variance request. The reasons for the denial are as follows:

1. There are no special or unusual circumstances which apply to the subject situation which would deprive the petitioner of substantial property rights, or to a degree which interferes with the best use or manner of development of the subject property.

The subject property is a vacant residential lot which was acquired by the petitioner who resides on the adjacent parcel. The petitioner has since improved the subject property such that there are no particular topographic or other institutional constraints (easements, rights-of-way, etc.) which limit potential development of the subject parcel for either residential or accessory uses. The property in question does not have any unusual configuration, location, or lot size deviation in comparison to other lots within the Komohana Gardens Subdivision. Surrounding properties are either vacant or presently used for residential purposes.

OCT 1 1981

The subject property contains a land area of 10,459 square feet. After applying all building setbacks, there is a net remaining buildable area of approximately 5,459 square feet. The installed improvements, including the swimming pool area, encumber approximately 1,800 square feet of the total lot area. Thus, it is apparent that there were other available alternatives for situating the recreational improvements without the necessity for encroachment into any of the building setbacks.

In consideration of the petitioner's improvements, approximately 3,600 square feet of buildable land area would still be available for residential or other recreational purposes. Compliance, therefore, with all the setback requirements would not substantially deprive the petitioner of property or potential development rights to a degree which affects the best use of the subject property.

2. Approving the Variance request would constitute a grant of special privilege in view of the circumstances noted above, and would be inconsistent with the standard limitations imposed on other similarly designated properties in the general area.

It is conceded that the petitioner proceeded with construction of the subject improvements with assumptions that the proposed work would have negligible physical impacts. The extended scope of the development, however, was largely for the petitioner's convenience rather than compliance with applicable construction and zoning requirements.

The petitioner has stated that a potential resolution--to consolidate his adjacent residential lot with the property in question--would not be appropriate for several reasons. It has been demonstrated, however, that reasonable developmental potential for residential purposes still exists on the subject property without any consolidation action and without encroachment of the violative structures into the building setbacks.

3. Granting the request would be incompatible with the intent and purpose of the Zoning Code and the County General Plan goals of aesthetic balance and open space between structures. The intent of the setback requirement is to provide for a standard amount of light, air, and circulation between structures, as well as a visual and physical separation of structures, which each parcel should be able to expect, according to the Zoning and Building Codes. On the subject parcel, a residential dwelling can

Dr. Andrew Maeda  
Page 3  
September 30, 1981

legally be built adjoining or attached to the shade-pump structure but which, if constructed, would circumvent that provision, whereas respecting the setback would provide it.

For these reasons, it is determined that the variance request to allow the retention of a swimming pool pumping equipment structure with a zero (0) side yard setback in lieu of the minimum ten (10) feet side yard setback requirement be denied.

The Director's decision is final, except that within ten (10) working days after receipt of this letter, you may appeal the decision in writing to the Planning Commission by submitting the following:

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,



SIDNEY M. FUCE  
Planning Director

DT:gs

cc: Planning Commission  
DPW - Building Division

bcc: Masa's Section