

CERTIFIED MAIL

October 2, 1981

Mr. William Barchet  
P. O. Box 1928  
Kealahou, HI 96750

Dear Mr. Barchet:

Variance Application - V81-16  
Height Limitation for Accessory Structure  
TMK: 8-3-7:36; S. Kona

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:

1. There are no special or unusual circumstances applying to the subject property, building, or use not generally applying to similar surrounding properties. The major circumstance involved is the fact that a structure was built beyond the scope of what was portrayed by the owner on his building permit application, and consequently exceeded the limits of what is permissible under the zoning code. The applicant depicted a one story, 12 ft. high structure. The contention by the petitioner that he was not advised by County inspectors until final inspection that the structure was improperly constructed does not obscure or eliminate the fact that the petitioner did not construct according to approved plans.
2. The standard outline sketch which the County offers to applicants to graphically assist in describing accessory structures is that of a one-story structure. It is reasonable and fair to expect that the average applicant given the sketch of said sample structure yet who intends a 2-story building instead would: a) Enter the correct, proposed building dimensions; b) Add to the sketch the additional story he intended to build; c) Inquire of the

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difference between the standard illustration (showing 1 story) and his intent to build 2 stories instead. The applicant in this case did neither of these reasonably expected actions.

3. The circumstance was attributable to the applicant himself, and a reversion of the structure to the zoning code's accessory standards would not deprive the owner of substantial property rights to a degree obviously interfering with the best use of the property. The property is 1.45+ acres in size and has ample buildable terrain to readily conform with zoning code provisions. Additionally, the applicant could also convert the existing structure to a residential or farm dwelling. This alternative could be allowable under the existing zoning requirements.
4. Granting of the variance would constitute a grant of special privilege. The average or usual applicant in a generally similar situation could reasonably and readily comply with the code requirements of the County as concerns accessory structures. Similarly, granting of the Variance application would be contrary to the intent of the zoning code and the policies espoused in the General Plan.

Based on the above findings, therefore, the subject variance is 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.

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

Sincerely,



SIDNEY FUKÉ  
Planning Director

DT:lrp

cc: Planning Commission  
DPW - Building Division

bcc: Masa Onuma